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# Rules and Regulations

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

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2019–0024; Product Identifier 2018–NM–138–AD; Amendment 39–19640; AD 2019–10–01]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier, Inc., Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model CL–600–2A12 (601) airplanes. This AD was prompted by a report of damage to the anti-rotation tab on a main landing gear (MLG) side brace fitting due to the installation of an incorrect side brace fitting shaft. This AD requires an inspection of the MLG side brace fitting for damage, a verification of the side brace fitting shaft part number, and replacement of the side brace fitting shaft if necessary. It also requires the installation of an anti-rotation bracket. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective July 18, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 18, 2019.

**ADDRESSES:** For service information identified in this final rule, contact Bombardier, Inc., 200 Côte-Vertu Road West, Dorval, Québec H4S 2A3, Canada; North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0024.

### Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0024; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Aziz Ahmed, Aerospace Engineer, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone: 516–287–7329; fax: 516–794–5531; email: *Aziz.Ahmed@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model CL–600–2A12 (601) airplanes. The NPRM published in the **Federal Register** on February 28, 2019 (84 FR 6705). The NPRM was prompted by a report of damage to the anti-rotation tab on an MLG side brace fitting due to the installation of an incorrect side brace fitting shaft. The NPRM proposed to require an inspection of the MLG side brace fitting for damage, a verification of the side brace fitting shaft part number, and replacement of the side brace fitting shaft if necessary. It also proposed to require the installation of an anti-rotation bracket.

We are issuing this AD to address premature cracking of the MLG side brace fitting. This condition, if not corrected, could lead to the collapse of the MLG, resulting in structural damage to the wing spar and fuel tank.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2018–19, dated July 20, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model CL–600–2A12 (601) airplanes. The MCAI states:

> There has been a report of damage to the anti-rotation tab on a Main Landing Gear (MLG) Side Brace fitting. Investigation of the report revealed that a Challenger model CL600 MLG Side Brace shaft had been installed on a Challenger model CL601 Side Brace fitting. Due to the difference in size, this will result in changes to the way the load is transferred between the shaft and the MLG Side Brace fitting and may result in premature cracking of the MLG Side Brace fitting. This condition, if not corrected, could lead to the collapse of the MLG resulting in structural damage to the wing spar and fuel tank.
>
> This [Canadian] AD mandates an inspection of the MLG Side Brace fitting and shaft to verify that the correct shaft part number (P/N) is installed and the fitting is not damaged [damage includes cracking, scratches, gouges, corrosion, defects, and incorrect inner diameter tolerance]. If the Challenger CL600 shaft is installed, this AD mandates replacement with the correct Challenger model CL601 part. If the correct P/N is found installed, this [Canadian] AD also mandates the installation of a bracket to prevent the incorrect part from being installed in the future.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0024.

### Comments

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

### Conclusion

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

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

**Related Service Information Under 1 CFR Part 51**

Bombardier has issued Service Bulletin 601–0624, Revision 02, dated January 29, 2018. This service information describes procedures for inspecting the MLG side brace fitting and side brace fitting shaft, installing a replacement side brace fitting shaft if necessary, and installing an anti-rotation bracket.

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

**Costs of Compliance**

We estimate that this AD affects 9 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| 4 work-hours × $85 per hour = $340 | $397 | $737 | $6,633 |

We estimate the following costs to do any necessary on-condition actions that would be required based on the results of any required actions. We have no way of determining the number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

| Labor cost | Parts cost | Cost per product |
|---|---|---|
| 8 work-hours × $85 per hour = $680 | $7,989 | $8,669 |

**Authority for This Rulemaking**

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

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

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

**Regulatory Findings**

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

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

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

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2019–10–01 Bombardier, Inc.:** Amendment 39–19640; Docket No. FAA–2019–0024; Product Identifier 2018–NM–138–AD.

**(a) Effective Date**

This AD is effective July 18, 2019.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Bombardier, Inc., Model CL–600–2A12 (601) airplanes, certificated in any category, serial numbers (S/N) 3001 through 3009 inclusive and 3011 through 3029 inclusive.

**(d) Subject**

Air Transport Association (ATA) of America Code 57, Wings.

**(e) Reason**

This AD was prompted by a report of damage to the anti-rotation tab on a main landing gear (MLG) side brace fitting due to the installation of an incorrect side brace fitting shaft. We are issuing this AD to address premature cracking of the MLG side brace fitting. This condition, if not corrected, could lead to the collapse of the MLG, resulting in structural damage to the wing spar and fuel tank.

**(f) Compliance**

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

**(g) Inspection for Damage and Identification of the Side Brace Fitting Shaft Part Number**

Within 400 flight cycles or 12 months, whichever occurs first, after the effective date of this AD, do the actions specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Identify the part number of the installed side brace fitting shaft.

(2) Do a detailed visual inspection (DVI) of the side brace fitting for signs of damage, including cracking and gouges, in accordance with paragraph 2.B. of the Accomplishment Instructions of Bombardier Service Bulletin 601–0624, Revision 02, dated January 29, 2018.

**(h) Installation of Anti-Rotation Bracket**

(1) For airplanes on which a side brace fitting shaft having P/N 600–10237–3 is installed and the actions required by paragraph (g) of this AD are done on or after the effective date of this AD: Before further flight, modify the MLG side brace fitting by installing the anti-rotation bracket in accordance with paragraph 2.C. of the Accomplishment Instructions of Bombardier Service Bulletin 601–0624, Revision 02, dated January 29, 2018.

(2) For airplanes on which a side brace fitting shaft having P/N 600–10237–3 is installed and the actions required by paragraph (g) of this AD were done before the effective date of this AD: Within 6 months after the effective date of this AD, modify the MLG side brace fitting by installing the anti-rotation bracket in accordance with paragraph 2.C. of the Accomplishment Instructions of Bombardier Service Bulletin 601–0624, Revision 02, dated January 29, 2018.

**(i) Replacement of the Side Brace Fitting Shaft and Installation of the Anti-Rotation Bracket**

(1) For airplanes on which a side brace fitting shaft having P/N 600–10237–1 or 600–10237–5 is installed and damage is found during the DVI of the side brace fitting: Before further flight, do a DVI of the anti-rotation tab and side brace fitting aft bushing for cracking, scratches, gouges, corrosion, and inner diameter tolerance, and a special detailed inspection (SDI) of the side brace fitting aft bore for cracks and defects; perform applicable repairs; replace the side brace fitting shaft with a side brace fitting shaft having P/N 600–10237–3; and install the anti-rotation bracket in accordance with paragraph 2.D. of the Accomplishment Instructions of Bombardier Service Bulletin 601–0624, Revision 02, dated January 29, 2018.

(2) For airplanes on which a side brace fitting shaft having P/N 600–10237–1 or 600–10237–5 is installed and no damage is found during the DVI of the side brace fitting: Within 300 flight cycles or 12 months, whichever occurs first, after the inspection required by paragraph (g)(2) of this AD, do a DVI of the anti-rotation tab and side brace fitting aft bushing for cracking, scratches, gouges, corrosion, and inner diameter tolerance, and an SDI of the side brace fitting aft bore for cracks and defects; perform applicable repairs; replace the side brace fitting shaft with a side brace fitting shaft having P/N 600–10237–3; and install the anti-rotation bracket in accordance with paragraph 2.D. of the Accomplishment Instructions of Bombardier Service Bulletin 601–0624, Revision 02, dated January 29, 2018.

**(j) Exceptions to Service Information**

Where Bombardier Service Bulletin 601–0624, Revision 02, dated January 29, 2018, specifies contacting Bombardier's Customer Support Engineering for repair instructions: This AD requires doing the repair before further flight using a method approved in accordance with the procedures specified in paragraph (l)(2) of this AD.

**(k) Credit for Previous Actions**

(1) For an airplane on which a side brace fitting shaft having P/N 600–10237–3 is installed: This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 601–0624, dated October 1, 2012; or Bombardier Service Bulletin 601–0624, Revision 01, dated March 29, 2017.

(2) This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 601–0624, dated October 1, 2012; or Bombardier Service Bulletin 601–0624, Revision 01, dated March 29, 2017, provided that the side brace fitting shaft was identified as having P/N 600–10237–3 and within 6 months after the effective date of this AD, the MLG side brace fitting is modified by installing the anti-rotation bracket in accordance with paragraph 2.C. of the Accomplishment Instructions of Bombardier Service Bulletin 601–0624, Revision 02, dated January 29, 2018.

(3) This paragraph provides credit for actions required by paragraphs (g) and (i) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 601–0624, Revision 01, dated March 29, 2017, provided that any side brace fitting shaft having P/N 600–10237–1 or P/N 600–10237–5 was identified and replaced with a side brace fitting shaft having P/N 600–10237–3, and the anti-rotation bracket was installed in accordance with paragraph 2.D. of the Accomplishment Instructions of Bombardier Service Bulletin 601–0624, Revision 01, dated March 29, 2017.

**(l) Other FAA AD Provisions**

The following provisions also apply to this AD:

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

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

**(m) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2018–19, dated July 20, 2018, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0024.

(2) For more information about this AD, contact Aziz Ahmed, Aerospace Engineer, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone: 516–287–7329; fax: 516–794–5531; email: *Aziz.Ahmed@faa.gov.*

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

**(n) Material Incorporated by Reference**

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

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

(i) Bombardier Service Bulletin 601–0624, Revision 02, dated January 29, 2018.

(ii) [Reserved]

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

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

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

Issued in Des Moines, Washington, on May 29, 2019.

**Michael Kaszycki,**

*Acting Director, System Oversight Division, Aircraft Certification Service.*

[FR Doc. 2019–12351 Filed 6–12–19; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2019–0405; Product Identifier 2019–NM–003–AD; Amendment 39–19647; AD 2019–11–01]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus SAS Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are superseding Airworthiness Directive (AD) 2018–25–12, which applied to certain Airbus SAS Model A350–941 airplanes. AD 2018–25–12 required modifying the vertical tail plane (VTP) tension bolts connection by adding sealant and protective treatment to the head of the connection, at the barrel nut cavities, and in the surrounding area. Since we issued AD 2018–25–12, it was determined that the instructions for certain airplanes are unclear for proper accomplishment of the required modification. This AD, for certain airplanes, requires accomplishing a revised modification and, for certain other airplanes, retains the modification required by AD 2018–25–12, as specified in an European Aviation Safety Agency (EASA) AD, which will be incorporated by reference. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD becomes effective June 28, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 28, 2019.

We must receive comments on this AD by July 29, 2019.

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

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

For the material incorporated by reference (IBR) in this AD, contact the EASA, at Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email: *ADs@easa.europa.eu;* internet: *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *http://www.regulations.gov.*

### Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0405; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218.

**SUPPLEMENTARY INFORMATION:**

### Discussion

We issued AD 2018–25–12, Amendment 39–19523 (83 FR 64230, December 14, 2018) (''AD 2018–25–12''), which applied to certain Airbus SAS Model A350–941 airplanes. AD 2018–25–12 required modifying the VTP tension bolts connection by adding sealant and protective treatment to the head of the connection, at the barrel nut cavities, and in the surrounding area. AD 2018–25–12 resulted from a determination that certain holes for the VTP tension bolts connection are not properly protected against corrosion. We issued AD 2018–25–12 to address corrosion of the VTP tension bolts connection, which could reduce the structural integrity of the VTP, and could ultimately lead to reduced controllability of the airplane.

### Actions Since AD 2018–25–12 Was Issued

Since we issued AD 2018–25–12, it was determined that the instructions for certain airplanes (Group 2 airplanes as identified in the EASA AD identified below), are unclear for proper accomplishment of the required modification.

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0290, dated December 21, 2018 (''EASA AD 2018–0290'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A350–941 airplanes. The MCAI states:

> It was identified that the section 19 holes for the Vertical Tail Plane (VTP) tension bolts connection are not properly protected against corrosion.
>
> This condition, if not corrected, could reduce the structural integrity of the VTP.
>
> To address this unsafe condition, Airbus developed production mod 108307 and mod 110696 to improve protection against corrosion, and issued the SB [service bulletin] to provide in-service modification instructions. Consequently, EASA issued AD 2018–0045 [which corresponds to FAA 2018–25–12] to require a modification by adding sealant and protective treatment to the head of the section 19 VTP tension bolts connection, at the barrel nut cavities and in the surrounding area.
>
> Since that [EASA] AD was issued, it was identified that the instructions for Group 2 aeroplanes, as identified in the SB, were not clear enough for proper accomplishment. Consequently, Airbus published Revision 01 of the SB to clarify those instructions for Group 2 aeroplanes.
>
> For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2018–0045, which is superseded, and requires, for Group 2 aeroplanes, accomplishment of the modification in accordance with the instructions of Revision 01 of the SB.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0405.

### Explanation of Retained Requirements

Although this AD does not explicitly restate the requirements of AD 2018–25–12, this AD retains certain requirements of AD 2018–25–12 with clarified instructions. Those requirements are referenced in EASA AD 2018–0290, which, in turn, is referenced in paragraph (g) of this AD.

**Related IBR Material Under 1 CFR Part 51**

EASA AD 2018–0290 describes procedures for implementing the means to protect the section 19 VTP frames connections (by modifying the VTP tension bolts connection by adding sealant and protective treatment to the head of the connection, at the barrel nut cavities, and in the surrounding area). This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**FAA's Determination**

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

**Requirements of This AD**

This AD requires accomplishing the actions specified in EASA AD 2018–0290 described previously, through the incorporation by reference of EASA AD 2018–0290, except for any differences identified as exceptions in the regulatory text of this AD.

**Explanation of Required Compliance Information**

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. As a result, EASA AD 2018–0290 is incorporated by reference in the FAA final rule. This AD, therefore, requires compliance with the provisions specified in EASA AD 2018–0290, except for any differences identified as exceptions in the regulatory text of this AD. Service information specified in EASA AD 2018–0290 that is required for compliance with EASA AD 2018–0290 is available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0405.

**FAA's Justification and Determination of the Effective Date**

Since there are currently no domestic operators of this product, notice and opportunity for public comment before issuing this AD are unnecessary. In addition, for the reasons stated above, we find that good cause exists for making this amendment effective in less than 30 days.

**Comments Invited**

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2019–0405; Product Identifier 2019–NM–003–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD based on those comments.

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

**Costs of Compliance**

Currently, there are no U.S.-registered airplanes. If an affected airplane is imported and placed on the U.S. Register in the future, we provide the following cost estimates to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product |
|---|---|---|
| 48 work-hour × $85 per hour = $4,080 | $9,200 | $13,280 |

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

**Authority for This Rulemaking**

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

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

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

**Regulatory Findings**

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

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

1. Is not a "significant regulatory action" under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2018–25–12, Amendment 39–19523 (83 FR 64230, December 14, 2018), and adding the following new AD:

**2019–11–01 Airbus SAS:** Amendment 39–19647; Docket No. FAA–2019–0405; Product Identifier 2019–NM–003–AD.

**(a) Effective Date**

This AD becomes effective June 28, 2019.

**(b) Affected ADs**

This AD replaces AD 2018–25–12, Amendment 39–19523 (83 FR 64230, December 14, 2018) (''AD 2018–25–12'').

**(c) Applicability**

This AD applies to Airbus SAS Model A350–941 airplanes, certificated in any category, as identified in European Aviation Safety Agency (EASA) AD 2018–0290, dated December 21, 2018 (''EASA AD 2018–0290'').

**(d) Subject**

Air Transport Association (ATA) of America Code 55, Stabilizers.

**(e) Reason**

This AD was prompted by a determination that certain holes for the vertical tail plane (VTP) tension bolts connection are not properly protected against corrosion. We are issuing this AD to address corrosion of the VTP tension bolts connection, which could reduce the structural integrity of the VTP, and could ultimately lead to reduced controllability of the airplane.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2018–0290.

**(h) Exceptions to EASA AD 2018–0290**

(1) For purposes of determining compliance with the requirements of this AD: Where EASA AD 2018–0290 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2018–0290 refers to a compliance time after March 1, 2018, this AD requires using January 18, 2019 (the effective date of AD 2018–25–12).

(3) The ''Remarks'' section of EASA AD 2018–0290 does not apply to this AD.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC)*: For any service information referenced in EASA AD 2018–0290 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

**(j) Related Information**

For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218.

**(k) Material Incorporated by Reference**

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

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

(i) European Aviation Safety Agency (EASA) AD 2018–0290, dated December 21, 2018.

(ii) [Reserved]

(3) For EASA AD 2018–0290, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this EASA AD at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. EASA AD 2018–0290 may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0405.

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

Issued in Des Moines, Washington, on May 29, 2019.

**Michael Kaszycki,**

*Acting Director, System Oversight Division, Aircraft Certification Service.*

[FR Doc. 2019–12352 Filed 6–12–19; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2019–0338; Product Identifier 2019–NE–10–AD; Amendment 39–19653; AD 2019–11–07]**

**RIN 2120–AA64**

## Airworthiness Directives; Rolls-Royce plc Turbofan Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Rolls-Royce plc (RR) RB211–524G2–19, RB211–524G2–T–19, RB211–524G3–19, RB211–524G3–T–19, RB211–524H2–19, RB211–524H2–T–19, RB211–524H–36 and RB211–524H–T–36 engines. This AD requires removal of affected low-pressure compressor (LPC) shafts. This AD was prompted by unauthorized repairs to the affected LPC shafts that reduced their expected life. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective June 28, 2019.

The FAA must receive comments on this AD by July 29, 2019.

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

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

For service information identified in this final rule, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, United Kingdom, DE24 8BJ; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* internet: *https://www.aeromanager.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0338.

## Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0338; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Eugene Triozzi, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7148; fax: 781–238–7199; email: *Eugene.triozzi@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Discussion

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2018–0157, dated July 24, 2018 (referred to after this as ''the MCAI''), to address an unsafe condition for the specified products. The MCAI states:

> It was reported that a number of low pressure (LP) compressor shafts have undergone unauthorised repairs, which were found to be detrimental to the approved shaft life.
>
> This condition, if not corrected, could lead to fracture of the LP compressor shaft and release of high energy debris, possibly resulting in damage to, and reduced control of, the aeroplane.
>
> To address this potentially unsafe condition, it has been decided that a life reduction must be imposed for those LP compressor shafts known to have been repaired. However, the history of some shafts has not been determined and the unauthorised repairs may not have been confirmed. To address all the shafts that have possibly been subject to the unauthorised repairs, RR issued the NMSB to provide instructions to reduce the life of the affected shafts.

You may obtain further information by examining the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0338.

## Related Service Information

The FAA reviewed Rolls-Royce Alert Non-Modification Service Bulletin (NMSB) No. RB.211–72–AJ985, Initial Issue, dated April 17, 2018. The NMSB reduces the current declared cyclic life for the affected LPC shafts.

## FAA's Determination

This product has been approved by EASA and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the MCAI and service information referenced above. The FAA is issuing this AD because we evaluated all the relevant information provided by EASA and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

## AD Requirements

This AD requires removal of the affected LPC shafts at a reduced cyclic life limit.

## FAA's Justification and Determination of the Effective Date

No domestic operators use this product. Therefore, the FAA finds good cause that notice and opportunity for prior public comment are unnecessary. In addition, for the reason stated above, the FAA finds that good cause exists for making this amendment effective in less than 30 days.

## Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, the FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2019–0338 and Product Identifier 2019–NE–10–AD at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

## Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

## Costs of Compliance

The FAA estimates that this AD affects 0 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Replace LPT shaft | 0 work-hours × $85 per hour = $0 | $113,524 | $113,524 | $0 |

## Authority for This Rulemaking

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

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

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

## Regulatory Findings

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

For the reasons discussed above, the FAA certifies this AD:

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

(2) Will not affect intrastate aviation in Alaska.

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2019–11–07 Rolls-Royce plc:** Amendment 39–19653; Docket No. FAA–2019–0338; Product Identifier 2019–NE–10–AD.

**(a) Effective Date**

This AD is effective June 28, 2019.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all Rolls-Royce plc (RR) RB211–524G2–19, RB211–524G2–T–19, RB211–524G3–19, RB211–524G3–T–19, RB211–524H2–19, RB211–524H2–T–19, RB211–524H–36 and RB211–524H–T–36 engines.

**(d) Subject**

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section.

**(e) Unsafe Condition**

This AD was prompted by unauthorized repairs to the affected low-pressure compressor (LPC) shafts that reduced their expected life. The FAA is issuing this AD to prevent failure of the LPC shaft. The unsafe condition, if not addressed, could result in uncontained release of the LPC shaft, damage to the engine, and damage to the airplane.

**(f) Compliance**

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

**(g) Required Actions**

Within 30 days from the effective date of this AD or before exceeding 10,500 flight cycles (FCs) since new, whichever occurs later, remove LPC shaft, part number (P/N) UL24833, with serial numbers (S/Ns) PATH3113; PATH3121; PAVN1765, PAVN1853, PAVN2152, PAVN2157, PAVN2259, PAVN2636, PAVN2991, or PAVN2992.

**(h) Installation Prohibition**

After the effective date of this AD, do not install an LPC shaft, P/N UL24833 and with S/Ns PATH3113; PATH3121; PAVN1765, PAVN1853, PAVN2152, PAVN2157, PAVN2259, PAVN2636, PAVN2991, or PAVN2992, with 10,500 FCs since new, or greater, on any engine.

**(i) Alternative Methods of Compliance (AMOCs)**

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

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

**(j) Related Information**

(1) For more information about this AD, contact Eugene Triozzi, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7148; fax: 781–238–7199; email: *Eugene.triozzi@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2018–0157, dated July 24, 2018, for more information. You may examine the EASA AD in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2019–0338.

**(k) Material Incorporated by Reference**

None.

Issued in Burlington, Massachusetts, on June 6, 2019.

**Robert J. Ganley,**

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

[FR Doc. 2019–12461 Filed 6–12–19; 8:45 am]

BILLING CODE 4910–13–P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA–2019–0393; Product Identifier 2019–NE–14–AD; Amendment 39–19654; AD 2019–11–08]**

**RIN 2120–AA64**

## Airworthiness Directives; International Aero Engines Turbofan Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all International Aero Engines, LLC (IAE) PW1133G–JM, PW1133GA–JM, PW1130G–JM, PW1129G–JM, PW1127G–JM, PW1127GA–JM, PW1127G1–JM, PW1124G–JM, PW1124G1–JM, and PW1122G–JM model turbofan engines. This AD requires the removal of the main gearbox (MGB) assembly and electronic engine control (EEC) software and the installation of a part and software version eligible for installation. This AD was prompted by multiple reports of in-flight engine shutdowns (IFSDs) as the result of high-cycle fatigue causing fracture of certain parts of the MGB assembly. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective June 28, 2019.

The FAA must receive comments on this AD by July 29, 2019.

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

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

For service information identified in this final rule, contact International Aero Engines, LLC, 400 Main Street, East Hartford, CT 06118; phone: 800–565–0140; email: *help24@pw.utc.com;* internet: *http://fleetcare.pw.utc.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0393.

### Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0393; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Kevin M. Clark, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7088; fax: 781–238–7199; email: *kevin.m.clark@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

The FAA learned of 13 IFSD events on certain IAE PW1100G–JM model turbofan engines beginning in October, 2018. After further analysis, IAE determined that the integrated drive generator (IDG) oil pump drive gearshaft assembly in the MGB assembly fractured during engine operation as a result of high-cycle fatigue. In response, IAE subsequently redesigned the IDG oil pump drive gearshaft assembly in the MGB assembly with an axially thicker gear web, a radially thicker gear rim, and an improved tooth tip relief to improve MGB assembly durability and reliability. IAE also redesigned the EEC software to restrict engine operation to certain parameters. This condition, if not addressed, could result in failure of one or more engines, loss of thrust control, and loss of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

### Related Service Information

The FAA reviewed PW Service Bulletin (SB) PW1000G–C–72–00–0129–00A–930A–D, Original Issue, dated April 18, 2019, and PW SB PW1000G–C–73–00–0037–00A–930A–D, Original Issue, dated May 28, 2019. PW SB PW1000G–C–72–00–0129–00A–930A–D, Original Issue, dated April 18, 2019, describes procedures for replacing the IDG oil pump drive gearshaft assembly in the MGB assembly. PW SB PW1000G–C–73–00–0037–00A–930A–D, Original Issue, dated May 28, 2019, describes procedures for replacing the EEC software to incorporate FCS 5.0 software.

### FAA's Determination

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

### AD Requirements

This AD requires the removal of the MGB assembly and EEC software and the installation parts and software versions eligible for installation.

### Interim Action

These actions are interim actions, and the FAA may do additional rulemaking in the future for removal and replacement of the MGB assembly on the engines that do not operate on 180-minute or 120-minute extended operations (ETOPS) flights.

### FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule. Multiple IAE PW1100G–JM model turbofan engines experienced MGB assembly failures recently, which resulted in IFSDs. The MGB assemblies must be removed for ETOPS operators within 90 or 120 days after the effective date of this AD, depending on the length of the operator's ETOPS flights, to ensure the MGB assemblies are replaced before fractures develop that could result in the failure of both MGB assemblies and a dual IFSD event. Therefore, the FAA finds good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reason stated above, the FAA finds that good cause exists for making this amendment effective in less than 30 days.

### Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, the FAA invites you to send any written data, views, or arguments about this final rule. Send your

comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2019–0393 and Product Identifier 2019–NE–14–AD at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

## Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

## Costs of Compliance

The FAA estimates that this AD affects 72 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Replace the MGB assembly | 13 work-hours × $85 per hour = $1,105 | $75,000 | $76,105 | $5,479,560 |
| Replace the EEC software | 3 work-hours × $85 per hour = $255 | 0 | 255 | 18,360 |

## Authority for This Rulemaking

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

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

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

## Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2019–11–08 International Aero Engines:** Amendment 39–19654; Docket No. FAA–2019–0393; Product Identifier 2019–NE–14–AD.

**(a) Effective Date**

This AD is effective June 28, 2019.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all International Aero Engines, LLC (IAE) PW1133G–JM, PW1133GA–JM, PW1130G–JM, PW1129G–JM, PW1127G–JM, PW1127GA–JM, PW1127G1–JM, PW1124G–JM, PW1124G1–JM, and PW1122G–JM model turbofan engines.

**(d) Subject**

Joint Aircraft System Component (JASC) Code 7260, Turbine Engine Accessory Drive.

**(e) Unsafe Condition**

This AD was prompted by multiple reports of in-flight engine shutdowns as the result of high-cycle fatigue causing fracture of certain parts of the main gearbox (MGB) assembly. The FAA is issuing this AD to prevent failure of the MGB assembly. The unsafe condition, if not addressed, could result in failure of one or more engines, loss of thrust control, and loss of the airplane.

**(f) Compliance**

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

**(g) Required Actions**

(1) Remove the MGB assembly, part number (P/N) 5322505, and install a part eligible for installation as follows:

(i) For engines that operate on 180-minute extended operations (ETOPS) flights, within 90 days from the effective date of this AD;

(ii) For engines that operate on 120-minute ETOPS flights, within 120 days from the effective date of this AD.

(2) For engines with MGB assembly P/N 5322505, within 120 days from the effective date of this AD, remove electronic engine control (EEC) software earlier than FCS 5.0 from the engine and load EEC software that is eligible for installation.

**(h) Installation Prohibition**

(1) After the effective date of this AD, do not install integrated drive generator (IDG) oil pump drive gearshaft assembly, P/N 5322630–01, into an MGB assembly.

(2) After the effective date of this AD, do not load EEC software earlier than FCS 5.0 on any engine identified in paragraph (c) of this AD with an MGB assembly, P/N 5322505.

**(i) Definitions**

(1) For the purpose of this AD, a ''part eligible for installation'' is an MGB assembly with an IDG oil pump drive gearshaft assembly other than P/N 5322630–01.

(2) For the purpose of this AD, ''EEC software that is eligible for installation'' is EEC software FCS 5.0 and later.

**(j) Alternative Methods of Compliance (AMOCs)**

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

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

**(k) Related Information**

For more information about this AD, contact Kevin M. Clark, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7088; fax: 781–238–7199; email: *kevin.m.clark@faa.gov.*

**(l) Material Incorporated by Reference**

None.

Issued in Burlington, Massachusetts, on June 6, 2019.

**Robert J. Ganley,**

*Manager, Engine & Propeller Standards Branch, Aircraft Certification Service.*

[FR Doc. 2019–12360 Filed 6–12–19; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

**[TD 9864]**

**RIN 1545–BO89**

## Contributions in Exchange for State or Local Tax Credits

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains a final regulation under section 170 of the Internal Revenue Code (Code). The final regulation provides rules governing the availability of charitable contribution deductions under section 170 when a taxpayer receives or expects to receive a corresponding state or local tax credit. This document also provides a final regulation under section 642(c) to apply similar rules to payments made by a trust or decedent's estate.

**DATES:**

*Effective date:* These regulations are effective August 12, 2019.

*Applicability dates:* For dates of applicability, see § 1.170A–1(h)(3)(viii) and § 1.642(c)–3(g)(2).

**FOR FURTHER INFORMATION CONTACT:** Mon L. Lam or Richard C. Gano IV at (202) 317–4059 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

Section 170(a)(1) generally allows an itemized deduction for any ''charitable contribution'' paid within the taxable year. Section 170(c) defines ''charitable contribution'' as a ''contribution or gift to or for the use of'' any entity described in that section. Under section 170(c)(1), such an entity includes a State, a possession of the United States, or any political subdivision of the foregoing, or the District of Columbia. Entities described in section 170(c)(2) include certain corporations, trusts, or community chests, funds, or foundations, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals.

To be deductible as a charitable contribution under section 170, a transfer to an entity described in section 170(c) must be a contribution or gift. A contribution or gift for this purpose is a voluntary transfer of money or property without the receipt of adequate consideration, made with charitable intent. In Rev. Rul. 67–246, 1967–2 C.B. 104, the Internal Revenue Service (IRS) addressed the taxpayer's burden of proof for establishing charitable intent when the taxpayer receives a privilege or benefit in conjunction with its contribution. In this revenue ruling, the IRS set out a two-part test for determining whether the taxpayer is entitled to a charitable contribution deduction under these circumstances. First, the taxpayer has the burden of proving that its payment to the charity exceeds the market value of the privileges or other benefits received. Second, the taxpayer must show that it paid the excess with the intention of making a gift.

In *United States* v. *American Bar Endowment,* 477 U.S. 105, 116–18 (1986), the Supreme Court elaborated on the test set out in Rev. Rul. 67–246. The Court interpreted the phrase ''charitable contribution'' in section 170 as it relates to the donor's receipt of consideration, and stated that the ''*sine qua non* of a charitable contribution is a transfer of money or property without adequate consideration.'' *Id.* at 118. The Court concluded that ''[a] payment of money generally cannot constitute a charitable contribution if the contributor expects a substantial benefit in return,'' (*id.* at 116), (hereinafter referred to as the ''*quid pro quo* principle''). The Court recognized that some payments may have a ''dual character''—part charitable contribution and part return benefit. *Id.* at 117. The Court reasoned that in dual character cases ''it would not serve the purposes of section 170 to deny a deduction altogether''; therefore, a charitable deduction is allowed, but only to the extent the amount donated or the fair market value of the property transferred by the taxpayer exceeds the fair market value of the benefit received in return, and only if the excess amount was transferred with the intent of making a gift. *Id.* See also *Hernandez* v. *Commissioner,* 490 U.S. 680, 690 (1989) (stating that Congress intended to differentiate between unrequited payments and payments made in return for goods or services). Because this inquiry focuses on the donor's expectation of a benefit, it does not matter whether the donor expects the benefit from the recipient of the payment or transfer, or from a third party. See, for example, *Singer Co.* v. *United States,* 449 F.2d 413, 422–23 (Ct. Cl. 1971); cited with approval in *American Bar Endowment,* 477 U.S. at 116–17.

In *Hernandez,* 490 U.S. at 690–91, the Supreme Court reaffirmed the *quid pro quo* standard articulated in *American Bar Endowment.* Specifically, the Court held that payments to a charity that entitled the taxpayers to receive an identifiable benefit in return for their money were part of a ''quintessential *quid pro quo* exchange,'' and thus, were not contributions or gifts within the meaning of section 170. *Id.* at 691. In making this determination, the Court noted the importance of examining the ''external features of a transaction,'' thereby ''obviating the need for the IRS to conduct imprecise inquiries into the motivations of individual taxpayers.'' *Id.* at 690–91. Thus, both *American Bar Endowment* and *Hernandez* indicate that objective considerations guide the determination of whether the taxpayer purposely contributed money or property in excess of the value of any benefit received in return. In addition, these cases continue to recognize the requirement that the taxpayer have charitable intent. See *American Bar*

*Endowment,* 477 U.S. at 118; *Hernandez,* 490 U.S. at 691.

Section 164 generally allows an itemized deduction for the payment of certain taxes, including state and local, and foreign, real property taxes; state and local personal property taxes; and state and local, and foreign, income, war profits, and excess profits taxes. Section 164(b)(6), as added by section 11042 of ''An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018'' (''the Act''), Public Law 115–97, limits an individual's deduction for the aggregate amount of state and local taxes paid during the calendar year to $10,000 ($5,000 in the case of a married individual filing a separate return). This limitation applies to taxable years beginning after December 31, 2017, and before January 1, 2026. This limitation does not apply to foreign taxes described in section 164(a)(3) or to any taxes described in section 164(a)(1) and (2) that are paid and incurred in carrying on a trade or business or an activity described in section 212.

In response to the new limitation under section 164(b)(6), some taxpayers are seeking to pursue tax planning strategies with the goal of avoiding or mitigating the limitation. These strategies rely on state and local tax credit programs under which states provide tax credits in return for contributions by taxpayers to or for the use of certain entities described in section 170(c). The use of state or local tax credits to incentivize charitable giving has become increasingly common over the past 20 years. Moreover, since the enactment of the limitation under section 164(b)(6), states and local governments have created additional programs intended to work around the new limitation on the deduction of state and local taxes.

The new limitation, and the resulting efforts by states and taxpayers to devise alternate means for deducting the disallowed portion of their state and local taxes, has generated increased interest in the question of whether a state or local tax credit should be treated as a return benefit—a *quid pro quo*—when received in return for making a payment or transfer to an entity described in section 170(c). The Treasury Department and the IRS did not publish formal guidance on this question before the enactment of the limitation under section 164(b)(6). In 2010, however, the IRS Chief Counsel advised that, under certain circumstances, a taxpayer may take a deduction under section 170 for the full amount of a contribution made in exchange for a state tax credit, without subtracting the value of the credit received in return. See CCA 201105010 (Oct. 27, 2010) (''the 2010 CCA''). IRS Chief Counsel has also taken the position in Tax Court litigation that the amount of a state or local tax credit that reduces a tax liability is not an accession to wealth includible in income under section 61 or an amount realized for purposes of section 1001. In these cases, the Tax Court agreed with the Chief Counsel's position. See, for example, *Maines* v. *Commissioner,* 144 T.C. 123, 134 (2015); *Tempel* v. *Commissioner,* 136 T.C. 341, 351–54 (2011); *aff'd sub nom. Esgar Corp.* v. *Commissioner,* 744 F.3d 648 (10th Cir. 2014).

Upon reviewing the authorities under section 170, the Treasury Department and the IRS questioned the reasoning of the 2010 CCA. On June 11, 2018, the Treasury Department and the IRS issued Notice 2018–54, 2018–24 I.R.B. 750, announcing the intention to propose regulations addressing the federal income tax treatment of contributions pursuant to state and local tax credit programs. On August 27, 2018, the proposed regulations (REG–112176–18) were published in the **Federal Register** (83 FR 43563).

The proposed regulations generally stated that if a taxpayer makes a payment or transfers property to or for the use of an entity listed in section 170(c), and the taxpayer receives or expects to receive a state or local tax credit in return for such payment, the tax credit constitutes a return benefit, or *quid pro quo,* to the taxpayer and reduces the taxpayer's charitable contribution deduction. The proposed regulations included a separate rule for state and local tax deductions, providing that they do not constitute a *quid pro quo* unless they exceed the amount of the donor's payment or transfer. The proposed regulations also included an exception under which a state or local tax credit is not treated as a *quid pro quo* if the credit does not exceed 15 percent of the taxpayer's payment or 15 percent of the fair market value of the property transferred by the taxpayer. Finally, the proposed regulations would amend § 1.642(c)–3 to provide similar rules for payments made for a purpose specified in section 170(c) by a trust or decedent's estate.

The Treasury Department and the IRS received over 7,700 comments responding to the proposed regulations and 25 requests to speak at the public hearing, which was held on November 5, 2018. Copies of written comments received and the list of speakers at the public hearing are available for public inspection at *www.regulations.gov* or upon request. The comments and revisions are discussed generally in this preamble. After considering the comments received and the concerns expressed at the public hearing, the Treasury Department and the IRS adopt the proposed regulations with certain revisions explained subsequently.

Additionally, in response to concerns raised in comments, the Treasury Department and the IRS have issued other guidance providing safe harbors on certain issues. On December 28, 2018, the Treasury Department and the IRS issued Rev. Proc. 2019–12, 2019–04 I.R.B. 401, providing a safe harbor under section 162 for certain payments made by a C corporation or specified passthrough entity to or for the use of an organization described in section 170(c) if the C corporation or specified passthrough entity receives or expects to receive a state or local tax credit in return for such payment. On June 11, 2019, the Treasury Department and the IRS will have issued Notice 2019–12, 2019–27 I.R.B., providing a safe harbor for payments made by certain individuals. Under the safe harbor, an individual who itemizes deductions and makes a payment to a section 170(c) entity in return for a state or local tax credit may treat the portion of such payment that is or will be disallowed as a charitable contribution deduction under section 170 as a payment of state or local tax for purposes of section 164. This disallowed portion of the payment may be treated as a payment of state or local tax under section 164 when and to the extent an individual applies the state or local tax credit to offset the individual's state or local tax liability. Notice 2019–12 requests comments for purposes of incorporating the safe harbor into anticipated proposed regulations under section 164. In general, the Treasury Department and the IRS will continue to consider comments and provide additional guidance in this area as needed.

## Explanation of Provisions and Summary of Comments

### *Explanation of Provisions*

The final regulations generally retain the proposed amendments set forth in the proposed regulations, with certain clarifying and technical changes. First, the final regulations retain the general rule that if a taxpayer makes a payment or transfers property to or for the use of an entity described in section 170(c), and the taxpayer receives or expects to receive a state or local tax credit in return for such payment, the tax credit constitutes a return benefit to the

taxpayer, or *quid pro quo,* reducing the taxpayer's charitable contribution deduction.

Second, the Treasury Department and the IRS have concluded that state tax credits and state tax deductions should be treated differently in light of policy and tax administration considerations identified in the preamble of the proposed regulations. Accordingly, the final regulations retain the rule that a taxpayer generally is not required to reduce its charitable contribution deduction on account of its receipt of state or local tax deductions. However, the final regulations also retain the exception to this rule for excess state or local tax deductions. Specifically, the taxpayer must reduce its charitable contribution deduction if it receives or expects to receive state or local tax deductions in excess of the taxpayer's payment or the fair market value of property transferred by the taxpayer.

Third, the final regulations retain the 15-percent exception, under which a taxpayer may disregard state and local tax credits as a return benefit where such credits do not exceed 15 percent of the taxpayer's payment. However, the final regulations clarify that this 15-percent exception applies only if the sum of the taxpayer's state and local tax credits received, or expected to be received, does not exceed 15 percent of the taxpayer's payment or 15 percent of the fair market value of the property transferred by the taxpayer.

Fourth, the final regulations reflect the correction of a typographical error in § 1.170A–1(h)(3)(i) of the proposed regulations. The introductory clause should refer to the 15-percent exception set forth in paragraph (h)(3)(vi), not paragraph (h)(3)(v). In addition, the final regulations clarify the terms used to describe entities that may receive charitable contributions under section 170(c). Specifically, the final regulations refer to entities ''described'' in section 170(c), rather than entities ''listed'' under section 170(c).

Finally, the final regulations include the proposed amendments to § 1.642(c)–3 providing that the final rules under § 1.170A–1(h)(3) apply to payments made by a trust or decedent's estate in determining its charitable contribution deduction under section 642(c).

*Summary of Comments*

1. Comments in Support of the Proposed Regulations

Approximately 70 percent of commenters recommended that the Treasury Department and the IRS finalize the proposed regulations without change. Some commenters characterized state and local tax credit programs as tax shelters and explained how taxpayers could use the programs to generate profits. A substantial number of commenters expressed concerns regarding the effect of these programs on public functions, including public education. Many commenters stated that the proposed regulations apply section 170 fairly. Many commenters noted that the proposed regulations applied to donations to organizations fulfilling both private and public purposes and applied to tax credit programs created both before and after the enactment of the Act. Some commenters stated that state tax credit programs are unfair to individuals who cannot afford to make the contributions and receive the benefit of the credits. Some commenters generally supported the proposed regulations, but provided more substantive comments regarding additional issues posed by the proposed regulations and requested additional guidance on those issues, either when finalizing the proposed regulations or in other guidance.

2. Section 170 Regulations in Response to a Section 164 Amendment

Many commenters wrote that it was improper for the Treasury Department and the IRS to issue regulations under section 170 in response to the enactment of section 164(b)(6). Commenters stated that any regulations must be issued under section 164 because an amendment to section 164 is driving the regulatory change.

The limitation under section 164(b)(6) is the impetus for the Treasury Department's and the IRS's consideration of the tax treatment of contributions made in exchange for state and local tax credits. Prior to the enactment of that limitation, the proper treatment of such contributions was of limited significance from a federal revenue perspective and tax administration perspective and was therefore never addressed in formal guidance. Upon careful review of the issue, the Treasury Department and the IRS have determined that longstanding principles under section 170 should guide the tax treatment of these contributions. Section 170 provides a deduction for taxpayers' gratuitous payments to qualifying entities, not for transfers that result in receipt of valuable economic benefits. In applying section 170 and the *quid pro quo* principle, the Treasury Department and the IRS do not believe it is appropriate to categorically exempt state or local tax benefits from the normal rules that apply to other benefits received or expected to be received by a taxpayer in exchange for a contribution. The final regulations are consistent with longstanding principles under section 170 and sound tax policy. Therefore, the regulations are issued under section 170, and not section 164.

3. Treatment of State and Local Tax Credits as Return Benefits

Commenters expressed differing views of the proposed regulation's requirement that a taxpayer reduce the taxpayer's charitable contribution deduction under section 170 by the total amount of state and local tax credits received or expected to be received. Many commenters agreed with the Treasury Department and the IRS that the *quid pro quo* principle should be applied to the receipt or expectation of receipt of state and local tax credits. However, some commenters questioned the application and effect of the *quid pro quo* principle under section 170 and the tax consequences of such application.

The Treasury Department and the IRS have determined that it is appropriate to apply longstanding principles under section 170 that require a taxpayer to reduce the amount treated as a charitable contribution by the value of the return benefit received. As discussed earlier in this preamble and in the preamble of the proposed regulations, the final regulations are consistent with the principle that a ''payment of money generally cannot constitute a charitable contribution if the contributor expects a substantial benefit in return.'' *American Bar Endowment,* 477 U.S. at 116. While the Supreme Court has not addressed the specific issue of contributions in exchange for state or local tax credits, the final regulations are a reasonable interpretation of section 170 that accords with the logic of *American Bar Endowment* and *Hernandez.* The final regulations are also supported by important tax policy considerations, including the need to prevent revenue loss from the erosion of the limitation under section 164(b)(6). Thus, the final regulations adopt the rule that the amount otherwise deductible as a charitable contribution under section 170 must generally be reduced by the total amount of state and local tax credits received or expected to be received.

a. Prior Chief Counsel Advice Memoranda and Case Law

Many commenters noted that the proposed regulations reflect a change in the IRS's treatment of charitable contributions that result in state or local tax credits. The commenters pointed to

several CCAs issued by IRS Chief Counsel from 2002 to 2010. See, for example, the 2010 CCA (addressing contributions of money or property to governments or charitable entities under several state tax credit programs); CCA 200435001 (July 28, 2004) (reviewing a program issuing state tax credits in return for contributions to certain child care organizations); CCA 200238041 (July 24, 2002) (considering a program issuing tax credits in return for the transfer of conservation easements). The preamble to the proposed regulations noted that, in each of these CCAs, IRS Chief Counsel recognized the complexity of the federal tax law issues involving the tax treatment of the receipt or expectation of receipt of state tax credits, particularly where the tax credits are granted for transfers to section 170(c) entities. The preamble also noted that two of the CCAs declined to provide specific guidance on the availability of the charitable contribution deduction, and suggested the issuance of formal guidance to address this question. Although CCAs are released to the public under section 6110, they are not official rulings or positions of the IRS, and cannot be cited as precedent. See sections 6110(b)(1)(A) and 6110(k)(3).

The Treasury Department and the IRS acknowledge that the proposed and final regulations depart from the conclusion of the 2010 CCA in important respects. As noted in the Background section of this preamble, the 2010 CCA concluded that a taxpayer may take a deduction under section 170 for the full amount of a contribution made in exchange for a state tax credit, without subtracting the value of the credit received in return. The 2010 CCA, however, failed to persuasively explain why state and local tax credits should not count as return benefits for purposes of applying the *quid pro quo* principle. The 2010 CCA cited cases in which courts had found that a donor's subjective motivation to minimize taxes is not a basis for disallowing a charitable deduction, but these cases did not specifically address whether the value of state or local tax credits should be treated as a *quid pro quo* that reduces the amount of the deduction. See *McLennan* v. *United States,* 24 Cl. Ct. 102,106 n.8 (1991); *Skripak* v. *Commissioner,* 84 T.C. 285, 319; *Allen* v. *Commissioner,* 92 T.C. 1, 7 (1989). The 2010 CCA also cited a case in which the value of a tax deduction was not treated as income under section 61, but that case did not address the application of the *quid pro quo* principle under section 170. See *Browning* v. *Commissioner,* 109 T.C. 303 (1997). Furthermore, the analysis in the 2010 CCA assumed that after the taxpayer applied the state or local tax credit to reduce the taxpayer's state or local tax liability, the taxpayer would receive a smaller deduction for state and local taxes under section 164. With the enactment of section 164(b)(6), that assumption no longer holds true for the vast majority of taxpayers. The changes in the tax laws reduce the number of taxpayers who will itemize deductions, and for taxpayers who itemize and have state and local tax liabilities above the new limitation, the use of the tax credit would not reduce the deduction for state and local taxes.

In light of the section 164(b)(6) limitation, the Treasury Department and the IRS have specifically considered the application of the *quid pro quo* principle to state and local tax credit programs. After careful consideration of comments submitted in response to the proposed regulations, the Treasury Department and the IRS have determined that it is appropriate to treat the receipt or the expectation of receipt of state and local tax credits as return benefits. As discussed previously in this preamble, the final regulations are supported by the Supreme Court's interpretation of the term ''charitable contribution'' under section 170. In *American Bar Endowment,* 477 U.S. at 118, the Court stated that the ''*sine qua non* of a charitable contribution is a transfer of money or property without adequate consideration''—that is, without the expectation of a *quid pro quo.* Thus, the Court held that a ''payment of money generally cannot constitute a charitable contribution if the contributor expects a substantial benefit in return.'' *Id.* at 116. The Supreme Court reaffirmed this principle in *Hernandez,* 490 U.S. at 690–91, and this principle has been consistently applied by the courts in subsequent decisions. See, for example, *Rolfs* v. *Commissioner,* 135 T.C. 471 (2010), *aff'd,* 668 F.3d 888 (7th Cir. 2012) (holding that taxpayers were not entitled to a charitable contribution deduction for the donation of their lake house because they did not show that the market value of the property they donated exceeded the market value of the benefit (demolition services) they received in return); *Triumph Mixed Use Investments III, LLC* v. *Commissioner,* T.C. Memo. 2018–65 (holding that value of real property and development credits transferred by taxpayer to city in return for development plan approvals was not deductible under section 170 because taxpayer expected a return benefit); *Pollard* v. *Commissioner,* T.C. Memo. 2013–38 (holding that petitioner's granting of conservation easements to the county was part of a quid pro quo exchange for the county's approval of the taxpayer's subdivision exemption request, a substantial benefit to the taxpayer.

This treatment is consistent not only with the purpose of section 170, but also with the section 164(b)(6) limitation. If the Treasury Department and the IRS were to allow taxpayers to claim a full charitable contribution deduction for contributions made in exchange for state tax credits, this treatment would result in significant federal tax revenue losses that would undermine the limitation on the deduction for state and local taxes in section 164(b)(6). Such an approach would enable taxpayers to characterize payments as fully deductible charitable contributions for federal income tax purposes, while using the same payments to satisfy their state tax liabilities. As a result, the final regulations reject the 2010 CCA's conclusion that the contribution deduction does not need to be reduced by the value of the state and local tax credit received or expected to be received.

Commenters also cited recent cases, such as *Maines* v. *Commissioner* and *Tempel* v. *Commissioner,* to conclude that the receipt of a state or local tax credit is, for federal tax purposes, a reduction or potential reduction in the taxpayer's state or local tax liability and not a payment includible in the taxpayer's gross income. *Maines,* 144 T.C. at 134 (citing *Randall* v. *Loftsgaarden,* 478 U.S. 647, 657 (1986)); *Tempel,* 136 T.C. at 350; see also Rev. Rul. 79–315, 1979–2 C.B. 27 (Holding (3) (amounts credited against unpaid tax is neither includible in taxpayer's income nor deductible as a state income tax paid)). The analysis for determining whether an item is included in gross income is separate and distinct from the analysis for determining whether a payment or transfer is a deductible contribution under section 170. Section 61(a) provides that gross income ''means all income from whatever source derived'' unless otherwise provided in Subtitle A, Income Taxes. In contrast, to be deductible as a charitable contribution under section 170, a transfer to an entity described in section 170(c) must be a contribution or gift, without the expectation or receipt of a return benefit. Neither *Maines* nor *Tempel* addressed whether a taxpayer's expectation or receipt of a state or local tax credit may reduce a taxpayer's charitable contribution deduction under section 170, and therefore, these cases

are not relevant for purposes of interpreting section 170.

Some commenters cited *Arizona Christian School Tuition Organization* v. *Winn,* 563 U.S. 125, 142–44 (2011), to support their position that the regulations should permit a full charitable contribution deduction when amounts are contributed to a charitable organization, even if the donor receives tax credits in return. While that case involved the types of contributions affected by the proposed regulations, the Court did not address whether such contributions are deductible under section 170 or whether the contributors received a substantial benefit in exchange for their contributions.

b. Tax Consequences of Quid Pro Quo Benefits

Some commenters pointed out that the proposed regulations failed to fully address the tax consequences of treating tax credits as *quid pro quo* benefits and suggested that additional guidance is needed. For example, commenters noted that the proposed regulations did not address the tax treatment of the sale, use, or lapse of the credits. In particular, commenters suggested that additional guidance may be needed to clarify application of the rules under sections 61, 164, 1001, and 1012 to the receipt, expectation of receipt, or use of tax credits. The Treasury Department and the IRS agree with commenters that additional guidance is necessary to address these complex issues.

Regarding the treatment of return benefits under section 164, the Treasury Department and the IRS issued Notice 2019–12 on [Month DD], 2019. As discussed previously in this preamble, Notice 2019–12 provides a safe harbor under section 164 for an individual who itemizes deductions and who makes a payment to a section 170(c) entity in return for a state or local tax credit. The Treasury Department and the IRS will continue to consider comments regarding other tax consequences of treating tax credits as *quid pro quo* benefits and will provide additional guidance as needed.

c. Application of Substance Over Form Doctrine

Some commenters suggested that the proposed regulations should have relied in whole or in part on the substance over form doctrine rather than the *quid pro quo* principle. Under a substance over form approach, commenters explained, the proposed regulations could treat contributions to funds established by state or local government entities in exchange for tax credits as, in substance, a payment of taxes to those government entities. These commenters stated that by relying on the substance over form doctrine, the proposed regulations could have been more easily tailored to address only those contributions paid to funds established to assist taxpayers in avoiding the limitation on state and local tax deductions. The commenters also stated that a focus on contributions to funds established by state and local government entities would more directly target the potential revenue loss.

The Treasury Department and the IRS have considered the substance over form doctrine in analyzing the proper tax treatment of contributions in exchange for tax credits, but have ultimately decided that, as a general matter, the application of the *quid pro quo* principle provides a more sound, comprehensive, and administrable approach. While a payment made to a state (or to an entity designated by the state) in exchange for a tax credit might in some circumstances seem similar to a payment of tax under section 164, the analysis raises additional issues and finds less support under other substance over form authorities. Specifically, this approach would result in the significant expansion in the definition of ''tax'' under section 164, would raise questions involving the proper timing of deductions for such payments, and would result in different treatments for similarly situated taxpayers. Furthermore, even if the substance over form doctrine were applied to treat payments or transfers to certain organizations as a payment of taxes, the proper treatment of these amounts under section 170, including the application of the *quid pro quo* principle, would continue to be relevant for taxpayers that make payments or transfers to certain charities in return for tax credits. The Treasury Department and the IRS have determined that the tax laws and sound tax policy support the treatment of a state tax credit as a return benefit that reduces the amount of the taxpayer's charitable contribution deduction under section 170, regardless of whether the entity to which the contribution is made is controlled by a state or local government. The *quid pro quo* principle is applicable to contributions made to all types of donee entities. Section 170(c) provides an expansive list of the types of entities to which a taxpayer may contribute and receive a charitable contribution deduction. This list includes organizations controlled by state or local governments. If a contribution is made to or for the use of any such entity, the contribution may qualify as a charitable contribution, provided it meets all other requirements.

Moreover, a substance over form approach would not fully address concerns raised by commenters regarding state and local tax credit programs. Such programs can be used to generate tax benefits in excess of the amount the taxpayer contributes to the charitable organization, regardless of whether the contribution is made to an entity controlled by a state or local government. Finally, the Treasury Department and the IRS have serious concerns about the practicability of delineating clear and administrable criteria for distinguishing between state and local government entities and section 170(c)(2) organizations that are closely connected to state and local governments.

d. Quid Pro Quo Provided by Third Party

Some commenters expressed a belief that under current law a *quid pro quo* received or expected to be received by a taxpayer does not reduce the taxpayer's charitable contribution deduction if the *quid pro quo* comes from a party that is not the donee. Based on that belief, these commenters concluded that a tax credit from a state or local government should not reduce the charitable contribution deduction for a payment to a section 170(c)(2) organization. At least one commenter recommended that where contributions are made to section 170(c)(2) entities in exchange for tax credits provided by the state or local government, the benefit should be treated as income to the donor.

In support of this position, many commenters referred to § 1.170A–1(h)(1) (payment in exchange for consideration) and § 1.170A–13(f)(6) (defining ''in consideration for'' as a donee organization providing goods and services in consideration for taxpayer's payment). One commenter expressed the view that the *quid pro quo* analysis cannot be applied to contributions to charitable organizations other than state or government entities because when a taxpayer makes a contribution to a charity, but receives consideration from a third party such as the state, the transaction cannot be characterized as a purchase. Commenters suggested that the language in the proposed regulations at § 1.170A–1(h)(3)(iii) creating an exception from the ''in consideration for'' language of § 1.170A–13(f)(6) for state or local tax credits provided by third parties is evidence that the proposed regulations depart from established law. Commenters suggested,

as an alternative, that the final regulations set forth a general rule applying *quid pro quo* principles to benefits a taxpayer receives from any source, regardless of whether the benefits are provided by the donee or a third party. That rule would be applicable in determining if there is any *quid pro quo* under section 170 in all contexts, not just when a taxpayer receives state or local tax credits.

Section 1.170A–1(h)(1) provides that no part of a payment that a taxpayer makes to or for the use of an organization described in section 170(c) that is in consideration for (as defined in § 1.170A–13(f)(6)) goods or services (as defined in § 1.170A–13(f)(5)) is a contribution or gift within the meaning of section 170(c) unless the taxpayer (i) intends to make a payment in an amount that exceeds the fair market value of the goods or services; and (ii) makes a payment in an amount that exceeds the fair market value of the goods or services. Section 1.170A–1(h)(2) states that the charitable contribution deduction under section 170(a) may not exceed the amount of cash paid or the fair market value of property transferred to an organization over the fair market value of goods or services the organization provides in return. Section 1.170A–13(f)(5) defines goods or services as cash, property, services, benefits, and privileges, and § 1.170A–13(f)(6) provides that a donee provides goods or services in consideration for a taxpayer's payment if, at the time the taxpayer makes a payment to the donee, the taxpayer receives or expects to receive goods or services in exchange for that payment.

The Treasury Department and the IRS acknowledge that the current regulations do not address situations in which the benefits a donor receives or expects to receive come from a third party. While the proposed regulations modify the existing regulations to address the specific case of payments in exchange for tax credits, the Treasury Department and the IRS intend to propose additional regulations setting forth a general rule for all benefits received or expected to be received from third parties, not just tax credits. In the interim, the final regulations regarding tax credits specify an exception to the existing definition of ''in consideration for.'' However, the application of the *quid pro quo* principle to benefits received or expected to be received from third parties is consistent with existing law.

In *American Bar Endowment* and *Hernandez,* the Supreme Court made clear that a payment is not a charitable contribution if the donor expects to receive a substantial benefit in return. *American Bar Endowment,* 477 U.S. at 116–17 (1986); *Hernandez,* 490 U.S. at 691–92. The source of the return benefit is immaterial from the donor's financial perspective. The *quid pro quo* principle is thus equally applicable regardless of whether the donor expects to receive the benefit from the donee or from a third party. In either case, the donor's payment is not a charitable contribution or gift to the extent the donor expects a substantial benefit in return.

The Supreme Court in *American Bar Endowment* and *Hernandez* did not directly address the question of third party benefits because the return benefits at issue in those cases were provided by the donees. The Court derived its *quid pro quo* principle in part from a lower court decision and a revenue ruling that had addressed the question. See *American Bar Endowment,* 477 U.S. at 117 (citing *Singer,* 449 F.2d 413 (Ct. Cl. 1971) and Rev. Rul. 67–246); *Hernandez,* 490 U.S. at 691 (citing *Singer*). In *Singer* v. *United States,* the appellate division of the Court of Claims (the predecessor to the Federal Circuit) held that a sewing machine company was not eligible for a charitable contribution deduction for selling sewing machines to schools at a discount because the company ''expected a return in the nature of future increased sales'' to students. *Singer,* 449 F.2d at 423–24. In so holding, the court expressly rejected the company's argument that this expected benefit should be ignored because it came from the students (*i.e.,* third parties), rather than directly from the schools. *Id.* at 422–23. The court stated, ''Obviously, we cannot agree with plaintiff's distinction.'' *Id.* Similarly, in Rev. Rul. 67–246, Example 11, a local department store agreed to award a transistor radio, worth $15, to each person who contributed $50 or more to a specific charity. The ruling concluded that if a taxpayer received a $15 radio as a result of a $100 payment to the charity, only $85 qualified as a charitable contribution deduction. It did not matter that the donor received the $15 radio from the department store, a third party, rather than from the charity. This understanding guides the IRS's audit practices. See IRS Conservation Easement Audit Techniques Guide (Rev. Jan. 24, 2018, p. 16) (stating that a ''quid pro quo contribution is a transfer of money or property partly in exchange for goods or services in return from the charity or a third party'', and ''a quid pro quo may be in the form of an indirect benefit from a third party'').

The Treasury Department and the IRS conclude that, under the most logical and consistent application of existing law, a charitable contribution deduction is reduced by any consideration a donor receives or expects to receive, regardless of whether the donee is the party from whom consideration is received or expected to be received. To conclude otherwise would provide incentives for taxpayers, charitable organizations, states, and localities to structure transactions involving third party benefits to bypass the requirements to reduce contribution deductions by the value of benefits received or expected to be received. Accordingly, the Treasury Department and the IRS do not adopt the recommendation of the commenters to limit application of the final regulations to circumstances in which a tax credit is provided by the donee, and as noted previously, the Treasury Department and the IRS intend to propose amendments to the existing regulations to make clear that the *quid pro quo* principle applies regardless of whether the party providing the *quid pro quo* is the donee.

4. Comments on Section 164(b)(6)

A number of commenters stated that the section 164(b)(6) limitation favors low-tax states, is a form of double taxation, or infringes on states' rights. These comments regarding the statutory limitation itself are beyond the scope of the proposed regulations.

5. Conservation Easement Contributions

A large number of comments from conservation easement donors, land trusts, and government entities involved in conservation easement donations were specific to conservation easements. Conservation easement comments that relate to the applicability date of the regulations are addressed under the ''Applicability Dates'' heading later in this section.[1]

One group of comments relating to conservation easements expressed the view that donations of conservation easements to land trusts should be excluded from the rules in the final regulations because of the importance of land conservation, because Congress has provided extra incentives for contributions of conservation easements over the years, and because easement donations are not intended as section 164(b)(6) workarounds. The Treasury Department and the IRS recognize that conservation easements provide unique and perpetual benefits that are accorded favorable tax treatment by state governments as well as by Congress.

[1] Although commenters used the term ''effective date,'' it is clear that commenters were referring to the ''applicability date'' as the term is used herein.

Specifically, Congress treats deductions for conservation easement contributions more favorably than other charitable contribution deductions in some contexts, such as the percentage limitation and carryover rules.

The final regulations do not adopt this suggestion. These regulations are based on longstanding rules of general applicability relating to *quid pro quo* and charitable intent, and there is no authority under section 170 that would void the application of the *quid pro quo* principle and charitable intent doctrine to donors of conservation easements.

A second group of comments state that determining the value of a conservation easement tax credit may be difficult for donors and also for donees who prepare contemporaneous written acknowledgments. In at least one state, easement donors receive a property tax credit for each of the years that they continue to own the underlying property. Commenters stated that it is unknowable at the time of the donation how many years the donor would be eligible for the property tax credit or how to value a right to a tax credit that could continue many years into the future. Also, an expected credit may not necessarily be granted, may be granted in a subsequent tax year, may be subsequently reduced, or might never be used or transferred. The Treasury Department and the IRS understand that in some cases taxpayers may never receive the maximum credit. Nevertheless, it is well settled that an expectation of a return benefit negates the requisite charitable intent, and the regulations apply that rule. The final regulations at § 1.170A–1(h)(3)(iv) state that the reduction in the amount treated as a charitable contribution is an amount equal to the maximum credit allowable that corresponds to the amount of the taxpayer's payment or transfer. If there is no clear maximum credit allowable, taxpayers may reduce their charitable contribution deduction using a good faith estimate of the value of the credit.

A third group of comments noted that conservation easement donors who sell their credit should get basis in the credit equal to the amount of the reduction in the charitable contribution deduction. A number of states have conservation easement tax credit programs that allow the donor to sell the credit. Under existing case law, an easement donor has no gain or loss on receipt of a credit but recognizes capital gain upon its sale. See, for example, *Tempel* v. *Commissioner,* 136 T.C. at 354–55 (concluding that conservation easement donors had no basis in the tax credits that they sold). The Treasury Department and the IRS agree with this comment that this basis issue warrants additional consideration. Although the basis issue is beyond the scope of these regulations, the Treasury Department and the IRS intend to consider this issue for future guidance.

6. Taxpayers at or Below the Section 164(b)(6) Limit

A number of commenters recommended that the Treasury Department and the IRS revise how the proposed regulations apply to taxpayers whose state and local tax deduction is at or below the $10,000 limit in section 164(b)(6). Under the proposed regulations, a taxpayer who itemizes and is not subject to the alternative minimum tax (AMT), and whose state or local tax deduction is at or below $10,000, may have adverse federal tax consequences. This taxpayer may have made a nondeductible contribution (in exchange for state or local tax credits) in lieu of a fully or partially deductible payment of state or local tax. Accordingly, some commenters recommended that taxpayers whose state and local tax liabilities fall at or below the $10,000 limit be allowed to deduct contributions made in exchange for state or local tax credits up to $10,000. Some commenters recommended allowing these taxpayers to deduct the contributions only when the taxpayers' contributions are to the state (as opposed to an entity described in section 170(c)(2)). Other commenters recommended allowing the deduction only when the taxpayers' contributions are to a state or local tax credit program that was in existence as of December 22, 2017, the date of the enactment of the Act. Many commenters cited case law, legislative intent, and general principles of fairness. Several commenters suggested further study or exceptions for taxpayers with state and local tax liabilities below the $10,000 limit. These commenters were concerned that the impact to these taxpayers may be greater than the Treasury Department forecasted. After considering these comments, the Treasury Department and the IRS published a notice of intent to propose regulations, Notice 2019–12, providing a safe harbor, as discussed previously in this preamble.

7. Application of Section 162 for Business Taxpayers

Some commenters stated that business taxpayers are treated more favorably than others because business taxpayers may be able to claim deductions for payments to section 170(c) entities as ordinary and necessary business expenses under section 162. These commenters are correct that taxpayers engaged in a trade or business may be permitted a section 162 deduction for amounts paid to charitable organizations in some circumstances. See, for example, *Marquis* v. *Commissioner,* 49 T.C. 695 (1968) (taxpayer's cash payments to clients that were charitable entities furthered her travel agency business and were therefore not subject to the limitations of section 170). However, some commenters raised questions regarding whether a payment for a tax credit would always bear a direct relationship to a taxpayer's business.

A few commenters opined that the proposed regulations further escalate the disparate treatment of charitable contributions by individual wage earners as compared to similar contributions by passthrough entities and their members who are individuals. These commenters noted that the limitation imposed by section 164(b)(6) does not apply to state or local real or personal property taxes paid or accrued in carrying on a trade or business or an activity described in section 212. As a result of this exception to the limitation under section 164 and the availability of business expense deductions under section 162, commenters stated that a taxpayer-owner of a passthrough entity will continue to receive the benefits of an allocable share of tax credits received by the passthrough entity. In addition, commenters pointed out that several states have enacted or considered enacting legislation that shifts state taxes from individuals to passthrough entities and entitles the owners to claim a credit on the owner's state tax return for the amount of the owner's distributive share of taxes paid by the passthrough entity.

The proposed and final regulations apply to charitable contributions by business taxpayers. Specifically, a business taxpayer, like an individual taxpayer, must reduce the charitable contribution deduction by the amount of any return benefit received or expected to be received. Thus, the commenters' concerns do not result from disparate treatment of business taxpayers under section 170, but rather result from the application of sections 162 and 164, including application of the limitation under section 164(b)(6) to passthrough entities and their owners. The Treasury Department and the IRS recognize that the final regulations may raise additional questions regarding the application of sections 162 and 164 to business entities that make payments to section 170(c) entities and that receive or expect to receive state or local tax credits in return for such payments. In

response to these questions, the Treasury Department and the IRS published Rev. Proc. 2019–12, as previously discussed in this preamble, which provides safe harbors under section 162 for certain payments made by C corporations or specified passthrough entities. Neither the final regulations nor the safe harbors in the revenue procedure otherwise affect the availability of a business expense deduction under section 162 for payments that are ordinary and necessary expenses incurred in carrying on a trade or business. The Treasury Department and the IRS will continue to study comments involving the effect of the final regulation on various business entities and will provide additional guidance as needed.

8. Disclaiming the Tax Credit

If a taxpayer properly declines receipt of a benefit, the taxpayer will not be treated as receiving or expecting to receive the benefit, and the charitable contribution deduction will not be reduced by the amount of the benefit. See Rev. Rul. 67–246, 1967–2 C.B. 104, 108, Example 3 (taxpayer who wants to support charity, but does not intend to use the ticket offered in return for his donation, may refuse to accept the ticket and receive a charitable contribution deduction unreduced by the value of the ticket). A number of commenters asked for guidance on how a taxpayer may decline receipt of state or local tax credits. Although not specifically stated in the regulations, taxpayers who prefer to claim an unreduced charitable contribution deduction have the option of not applying for a state or local income tax credit where such an application is required in order to receive the credit. Alternatively, taxpayers may apply for a lesser amount of the credit. The Treasury Department and the IRS request comments as to how taxpayers may decline state or local tax credits in other situations.

9. Cliff Effect of the 15-Percent Exception

The proposed regulations include an exception under which a taxpayer may disregard a state or local tax credit if the credit does not exceed 15 percent of the taxpayer's payment or 15 percent of the fair market value of the property transferred by the taxpayer. A number of commenters stated that the 15-percent exception results in an unfair ''cliff effect'' because credits above 15 percent do not receive the benefit of this exception. The commenters note that this unfairness is most significant where credits only exceed 15 percent by a small amount. A number of commenters suggested that an amount equal to the first 15 percent of all credits should be disregarded. Commenters also noted that the proposed regulations penalized donors of smaller amounts because 15 percent of a large payment results in a much larger amount covered by the exception than 15 percent of a small payment. Commenters also noted that a 15-percent exception would typically permit a deduction for an amount that is more than the amount treated as *de minimis* under the rules of section 170. See, for example, Rev. Proc. 90–12, 1990–1 C.B. 471 (providing guidelines for determining whether the provision of small items or benefits of token value in return for a contribution have insubstantial value such that the contribution is fully deductible under section 170). On the other hand, some commenters requested that a higher percentage be treated as *de minimis.*

The suggestion to disregard an amount equal to 15 percent of the donor's transfer or otherwise change the 15-percent exception was not adopted. The 15-percent exception was designed to provide consistent treatment for state or local tax deductions and state or local tax credits that provide a benefit that is generally equivalent to a deduction. The 15-percent exception is intended to reflect the combined benefit of state and local tax deductions, that is, the combined top marginal state and local tax rates, which the Treasury Department and the IRS understand currently do not exceed 15 percent. The Treasury Department and the IRS considered tailoring this exception to the combined marginal state and local tax rates applicable for a taxpayer's particular jurisdiction. The Treasury Department and the IRS determined that using a single rate sufficient to cover the highest existing marginal rates would avoid the complexity and burden that would arise if a taxpayer had to compute the sum of the taxpayer's state and local marginal tax rates to determine whether the tax credit received exceeded the benefit that the taxpayer would have received as a deduction. The exception ensures that taxpayers in states offering state tax deductions and taxpayers in states offering economically equivalent credits are treated similarly. This exception is not intended to be an application of the *de minimis* standard for insubstantial or inconsequential benefits under Rev. Proc. 90–12, 1990–1 C.B. 471.

10. Application to State and Local Tax Deductions

Some commenters expressed concern that the proposed regulations do not apply the *quid pro quo* analysis to state and local tax deductions. These concerns reflect the view that the *quid pro quo* analysis under section 170 is equally applicable to tax benefits in the form of state or local tax deductions as it is to state or local tax credits. As noted in the preamble to the proposed regulations, the Treasury Department and the IRS believe that considerations of tax policy and sound tax administration do not support the application of *quid pro quo* principles in the case of dollar-for-dollar state or local tax deductions. The economic benefit of a dollar-for-dollar deduction is limited because it is based on a taxpayer's state and local marginal rate. Therefore, the risk of a taxpayer using such deductions to circumvent section 164(b)(6), and the potential revenue loss, is comparatively low. This is true even in high tax states. In addition, if state and local tax deductions for charitable contributions were treated as return benefits, it would make the accurate calculation of federal taxes and state and local taxes difficult for both taxpayers and the IRS. For example, the value of a deduction would vary based on the taxpayer's marginal state and local tax rates, making for more complex computations and adding to administrative and taxpayer burden. Also, many states use federal taxable income as the starting point for computing state taxable income, and the amount reported as a charitable contribution deduction on a taxpayer's federal tax return is typically the amount of the deduction on the taxpayer's state tax return. Allowing an unreduced federal charitable contribution deduction even though a state provides a similar deduction in measuring state taxable income would avoid administrative complications. Accordingly, a dollar-for-dollar state or local tax deduction does not raise the same concerns as a state or local tax credit, and it would produce unique complications if it were to be subject to the *quid pro quo* principle. Thus, the final regulations allow taxpayers to calculate their federal tax deductions without regard to their dollar-for-dollar state and local tax deductions. However, the Treasury Department and the IRS are concerned that the granting of state or local tax deductions in excess of the amounts paid or the fair market value of property transferred to an entity described in section 170(c) could result in more substantial economic benefits to the taxpayer and should be treated as a *quid pro quo.* Accordingly, the final regulations also retain the exception to general rule for excess state or local tax deductions.

Some commenters also contended that the proposed regulations disfavor state and local governments relative to the federal government. These commenters noted that the proposed regulations do not require a taxpayer to reduce the taxpayer's charitable contribution deduction by the value of the federal tax deduction. However, as discussed in the prior paragraph, the final regulations do not treat state charitable contribution deductions any differently than federal charitable contribution deductions. Under the final regulations neither state nor federal charitable contribution deductions are treated as return benefits in determining the taxpayer's charitable contribution deduction under section 170. The economic benefit of a state or federal charitable contribution deduction is limited because both are based on a taxpayer's marginal tax rate. In addition, there is minimal risk that a taxpayer will use either of these deductions to circumvent section 164(b)(6), and the potential revenue loss, in both cases, is comparatively low. Furthermore, unlike state or local governments, Congress would not be motivated to enact a provision enabling an excess charitable contribution to circumvent its other federal tax laws. Thus, the final regulations specifically address the workarounds stemming from taxpayer's use of state and local tax credit programs, but continue to provide parallel treatment of both federal and state charitable contributions deductions.

11. Contributions to Foreign Charitable Organizations

A small number of commenters expressed the view that the proposed regulations favor payments to foreign charities. Charitable contributions made to foreign organizations generally are not deductible for federal income tax purposes. See section 170(c)(2). Moreover, in the limited situations where these deductions are allowed, taxpayers are treated as if they are making such contributions to entities that are organized in the United States, and accordingly, such contributions would be subject to the rules and regulations under section 170. As a result, while tax credits provided by foreign governments for contributions to foreign charities are outside the scope of the final regulation, if the taxpayer is seeking to deduct such charitable contributions under section 170, the *quid pro quo* principle set out under section 170 would be equally applicable.

12. Valuation and Substantiation of the Credits

Commenters expressed concerns about the challenges for taxpayers and donees in determining the value of a state or local tax credit. Under the proposed regulations, a taxpayer needs to know the ''maximum credit allowable'' that corresponds to the amount of the taxpayer's transfer to the donee. This amount would typically be the stated amount of the credit, and unless the 15-percent exception applies, the taxpayer's charitable contribution deduction would generally be reduced by this amount. However, if the credit does not have a clear maximum credit allowable, a taxpayer's good faith estimate of the value will satisfy the rules of the final regulations.

Commenters have also expressed concerns about substantiation of a charitable contribution when the donee does not know whether the donor expects to receive a state or local tax credit. If a donee is not the entity providing the credit, the contemporaneous written acknowledgment rules do not require that the amount of the credit be reported in the acknowledgment. See section 170(f)(8) (stating that a contemporaneous written acknowledgment includes a statement of whether the donee provided goods and services and if so, includes a good faith estimate of the value of those goods or services). Further, under § 1.170A–13(f)(5), goods and services include benefits.

One commenter asked about compliance with section 6115, which generally requires donee disclosures in connection with *quid pro quo* contributions (as defined in section 6115(b)), and specifically requires section 170(c) organizations (but not section 170(c)(1) entities) to provide donors with a good faith estimate of the value of goods or services they provide. If a section 170(c)(2) organization is not providing the state or local tax credit to the donor, section 6115 does not apply. Accordingly, there is no section 6115 requirement for section 170(c)(2) organizations to disclose information about a tax credit provided by a state or local government.

13. Regulatory Flexibility Act

Some commenters stated that the Regulatory Flexibility Act (5 U.S.C. chapter 6) (''RFA'') applies to the regulations because small tax-exempt organizations and small governmental jurisdictions would be affected by the proposed regulations due to a potential reduction in contributions. These commenters recommended that the final regulations contain a RFA analysis. Other commenters noted that some donors may be small entities affected by the regulation. The Treasury Department and the IRS do not agree that a RFA analysis is required. The organizations and small governmental jurisdictions that receive deductible contributions as part of a state or local tax credit program are not subject to the proposed regulations, and any potential effect on contributions to these organizations is an indirect effect of the regulation. The RFA does not apply to entities indirectly affected by the regulation. See, for example, *Cement Kiln Recycling Coalition* v. *EPA,* 255 F.3d 855, 868 (D.C. Cir. 2001); *Mid-Tax Elec. Coop* v. *FERC,* 773 F.2d 327 (D.C. Cir. 1985). For small entities that are donors, and potentially subject to the regulations, the regulations do not impose more than nominal costs and do not impose a collection of information requirement.

14. Concerns About Reduced Charitable Giving

A large number of commenters expressed concern that the proposed regulations would result in an overall decline in charitable giving. Many of the commenters expressed concern about the impact of the regulations on particular charities or types of charities. A large number of comments were received on tax credit programs that encourage contributions to organizations that help fund public and private school programs. A number of commenters were concerned that the proposed regulations would decrease education opportunities for impoverished and special needs children in grades K–12. Some commenters suggested that the final regulations apply only to contributions to governments or government entities and not to private school organizations, while others suggested postponing the applicability date of final regulations to allow time to study the effects on scholarship granting organizations. A few commenters expressed a concern that the proposed regulations may result in a decrease in donations to scholarship granting organizations and increase the burden on public schools, given that private schools may not be able to provide as many scholarships to low-income students. Other commenters expressed concern that some state or local tax credit programs unfairly incentivize contributions to private organizations, thus diverting resources from public functions, such as public schools.

Other commenters recommended that donations of conservation easements should be exempted from the rules in the regulations. Commenters representing land trusts expressed concern that the regulations would reduce the number of donated conservation easements, thereby reducing the ability of the federal government, state and local governments, and land trusts to conserve in perpetuity significant natural lands, water, and habitats. A commenter noted the needs of struggling farmers and other landowners who might not be able to afford to donate a conservation easement without a state tax credit. Some commenters observed that because of the significance of land conservation, Congress has already provided special incentives for conservation easement donations under section 170, and the commenters suggested the Treasury Department and the IRS follow Congress's lead by making an exception in the final regulations for donations of conservation easements.

Commenters from health care organizations, such as rural hospital foundations, expressed concern that the proposed regulations would reduce charitable giving for health care, reducing the ability of health care organizations to offset rising medical costs and declining patient revenue. Other commenters expressed concerns that the proposed regulations would undermine state programs that offer tax credits for contributions supporting a variety of local initiatives, including public arts, education, health, human services, environment, enterprise zones, and community betterment. Other commenters were concerned about the effect of the regulations on child care programs. A few commenters opined that the proposed regulations would further strain state and local finances that are already adversely impacted by the new limitation on deductions of state or local taxes. The commenters stated that the new limitation would potentially force states and localities to confront difficult choices regarding tax rates and public services. In addition, several commenters suggested that the Treasury Department and the IRS adopt a facts-and-circumstances test to differentiate between tax credit programs that are consistent with state and federal policy goals and those that are designed for tax avoidance.

The Treasury Department and the IRS recognize the importance of the federal charitable contribution deduction, as well as state tax credit programs, in encouraging charitable giving. The final regulations continue to allow a charitable contribution deduction for the portion of a taxpayer's charitable contribution that is a gratuitous transfer, and the regulations also leave unchanged the state-level benefit provided by state tax credits. In combination with Notice 2019–12, the regulations will not alter the charitable giving incentives for the overwhelming majority of taxpayers as compared to the incentives under federal tax law prior to enactment of section 164(b)(6). As discussed previously in this preamble, Notice 2019–12 provides a safe harbor for certain individual taxpayers who itemize deductions and who make payments to a section 170(c) entity in return for a state or local tax credit. Under the safe harbor, these individuals may treat the portion of such payment that is or will be disallowed as a charitable contribution deduction under section 170 as a payment of state or local tax for purposes of section 164. Notice 2019–12 will mitigate the impact of the final regulations on state or local tax credit programs that incentivize giving to all section 170(c) entities, including entities supporting educational scholarship programs, child care, public health, and other important goals. Thus, the impact on taxpayers' choices will be small.

The final regulations apply longstanding principles regarding charitable intent and *quid pro quo,* and therefore treat all contributions to entities described in section 170(c) similarly. Those principles apply equally to all charitable contributions, regardless of the charitable purpose or type of donee. Accordingly, the final regulations do not adopt a facts-and-circumstances test or a test based on the type of section 170(c) organization.

15. Programs in Existence Before the Act

A large number of commenters suggested that the final regulations exempt tax credit programs that were established before the date of the enactment of section 164(b)(6). The commenters noted that the pre-existing programs could not have been intended as section 164(b)(6) workarounds. Other commenters explained that many taxpayers made payments or transfers to existing programs in anticipation of receiving state or local tax credits as well as deductions, and the regulations would cause financial hardships. Further, some commenters expressed an opinion that the regulations are politically motivated, allegedly targeting states and localities with high tax rates. Commenters also stated that exempting pre-existing programs would not lead to an unanticipated revenue loss because revenue implications were known when the Act was enacted.

The regulations are based on longstanding federal tax law principles that apply equally to all taxpayers. To ensure fair and consistent treatment, the final regulations do not distinguish between taxpayers who make transfers to state and local tax credit programs enacted after the Act and those who make transfers to tax credit programs existing prior to the enactment of the Act. Neither the intent of the section 170(c) organization, nor the date of enactment of a particular state tax credit program, are relevant to the application of the *quid pro quo* principle. Accordingly, the final regulations apply the rules equally to all state and local tax credit programs, and the final regulations do not adopt commenter recommendations to create exceptions to the general rule for various types of state tax credit programs.

Regarding the comment on revenue implications for pre-existing programs, state and local governments have the ability to change the parameters, including the aggregate dollar amount of credits, of these programs. In addition, as noted previously, some states and taxpayers have pursued tax planning strategies through the use of pre-existing state or local tax credit programs that would have the effect of allowing taxpayers to deduct their payments of state and local taxes in excess of the limitation under section 164(b)(6). These strategies would increase the revenue loss to the federal government beyond estimates when the Act was enacted.

16. Applicability Date

A number of commenters requested a delayed applicability date, or in the alternative, a phased-in implementation of the proposed regulations. The majority of these commenters requested an applicability date of January 1, 2019. Others suggested dates of up to five years after the enactment of the Act, and still others did not propose a specific date. Some commenters requested a delayed applicability date with respect to all tax credit programs, while others requested a delayed applicability date for only certain tax credit programs.

Many commenters requesting a delayed applicability date expressed concern about the adverse impact on state scholarship tax credit programs. Some commenters noted that a phased-in implementation or delayed applicability date may minimize uncertainty for students. Commenters also described the application process for certain state tax credit programs, requesting a delayed applicability date

of October 31, 2018, or December 31, 2018, to ensure that states would have sufficient time to inform applicants as to whether their applications were accepted, and to provide applicants with sufficient time to make contributions prior to the date of applicability of the proposed regulations.

Some commenters requested a delayed applicability date of January 1, 2019 or 2020, for conservation easement donations. These commenters stated that donations of conservation easements are unique in that they are time-consuming and costly for donors to plan for and finalize. For example, a conservation easement donor may have to expend tens of thousands of dollars to hire an appraiser, an attorney, a surveyor, and in some jurisdictions, pay an application fee. Also, it takes many months, sometimes more than a year, for the donor to take all the necessary steps to contribute an easement that is deductible under section 170(h) and also creditable under state law, and many easements are donated at the end of the calendar year. The commenters stated that the mid-year applicability date in the proposed regulations has created complexity for taxpayers.

These suggestions were not adopted. The Treasury Department and the IRS continue to believe that the proposed applicability date of August 27, 2018, provides maximum certainty for taxpayers making contributions in exchange for state and local tax credits and minimizes revenue loss. If the proposed applicability date had not been contemporaneous with the proposed regulations, the Treasury Department and the IRS believe that taxpayers would have engaged in significant tax planning in advance of the regulations being finalized, resulting in a significant loss of revenue. Additionally, Notice 2018–54, released May 23, 2018, gave taxpayers timely notice that formal guidance was forthcoming. It would be inequitable to revise the applicability date at this point, as some taxpayers have made decisions regarding their charitable contributions based on the applicability date in the proposed regulations. Finally, any delay in applying the rules of the final regulation would potentially undermine the purposes of the limitation in section 164(b)(6).

## Special Analyses

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated as subject to review under Executive Order 12866 (E.O. 12866) pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget (OMB) regarding review of tax regulations. OMB has determined that the rule is economically significant and therefore subject to review under section 1(c) of the Memorandum of Agreement (MOA). Elsewhere in the Special Analyses, the economic effects of the rule are analyzed in conjunction with Notice 2019–12, which provides a safe harbor that taxpayers may immediately rely upon and that likely diminishes the effects of the rule. OMB has made its determination based only on the economic effects of the rule. This rule is a regulatory action under Executive Order 13771.

The following analysis provides further detail regarding the anticipated impacts of the rule. Part I explains the need for the rule. Part II specifies the baseline for the economic analysis. Part III summarizes the economic effects of the rulemaking, relative to this baseline. Part IV provides illustrative scenarios. Part IV.A describes the tax effects of charitable contributions prior to enactment of the statutory limitation on deductions for state and local taxes under section 164(b)(6) (the ''SALT limitation'') in the Act. Part IV.B provides examples comparing the tax effects of charitable contributions after enactment of the SALT limitation, but absent the rule (the baseline) to the tax effects under the rule and notice. Finally, Part V provides a qualitative assessment of the potential costs and benefits of the rule and notice compared to the baseline.

## I. Need for Regulation

This regulation provides guidance on the deductibility of charitable contributions when a taxpayer receives or expects to receive a corresponding state or local tax credit. The regulation is intended to clarify the relationship between the federal charitable contribution deduction under section 170 and the recently-enacted SALT limitation. Compelling policy considerations reinforce the interpretation and application of section 170 in this context. Disregarding the value of state and local tax credits received or expected to be received in return for charitable contributions would precipitate revenue losses that would undermine the limitation on the deduction for state and local taxes adopted by Congress under the Act.

In this regard, the Treasury Department and the IRS note that the Joint Committee on Taxation (JCT) estimated that the limitation on state and local tax deductions along with certain other reforms of itemized deductions would raise $668 billion over ten years. See Joint Committee on Taxation, ''Estimated Budget Effects of the Conference Agreement for H.R. 1, The 'Tax Cuts and Jobs Act,' '' JCX–67–17, December 18, 2017, at *https://www.jct.gov/publications.html?func=startdown&id=5053.* A substantial amount of this revenue would be lost if state tax benefits received in exchange for charitable contributions were ignored in determining the charitable contribution deduction. This estimate is not a revenue estimate of the rule, in part because it includes other reforms of itemized deductions but does not reflect certain other provisions of the Act. In addition, this does not represent an estimate of the non-revenue economic effects of the rule. Still, the JCT estimate provides a rough upper bound of the potential revenue loss and individual contribution choices at stake in this rulemaking.

## II. Baseline

Prior to the proposed and final regulation, the Treasury Department and the IRS had not issued formal guidance on the deductibility of contributions to entities described in section 170(c) that give rise to state or local tax credits. There was also no guidance, aside from Notice 2018–54, addressing the interaction between section 170 and the newly enacted SALT limitation. As a result, there was a degree of taxpayer uncertainty as to whether state and local tax credits were a return benefit that reduces a taxpayer's charitable contribution deduction, and absent further guidance, taxpayers would likely have taken different filing positions. For informational and analytical purposes, however, this analysis assumes as a baseline that state and local tax credits are generally not treated as a return benefit or consideration and therefore do not reduce the taxpayer's charitable contribution deduction under section 170(a). The illustrative scenarios presented below make use of alternative baseline scenarios to provide clarity on the incremental impacts arising out of the rule and notices.

## III. Summary of Economic Effects

Section 2 of the MOA stipulates that tax regulations that are likely to have a non-revenue effect on the economy of $100 million or more (identified in section 1(c) of the MOA) will be subject to the analytical requirements applicable to significant regulations under section 6(a)(3)(B) of E.O. 12866, as well as the additional requirements applicable to economically significant regulations under section 6(a)(3)(C) of E.O. 12866. Those requirements entail an assessment of potential costs and benefits of significant regulatory actions. Section 6(a)(3)(C) of E.O. 12866 also states that to the extent feasible, quantitative assessments including the underlying analyses for a non-inclusive list of factors shall be provided for the costs and benefits of rules that have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy or certain aspects of the economy.

At the proposed rule stage, the Treasury Department and the IRS determined that the proposed rulemaking would not result in costs, benefits, or non-revenue transfers in excess of $100 million per year, and thus would not be economically significant. However, the Treasury Department and the IRS acknowledge that there is limited quantitative data available for purposes of evaluating economic effects. Given the level of public interest and engagement, and possible economic and/or behavioral impact, including to individuals' contribution choices, beyond what can be reasonably anticipated with quantitative methods and available data, the final rule has been designated by OMB as economically significant, and it is therefore subject to the analytical requirements for an economically significant rule.

The Treasury Department and the IRS note, however, that the non-revenue impacts of the final rule could be below the economically significant threshold, especially when the potential effects are considered in conjunction with Notice 2019–12, which is to be issued with the final rule. The requirements in the Notice have not been finalized or incorporated into this final rulemaking, but as noted earlier in this preamble, the Treasury Department and the IRS anticipate issuing a proposed rule formalizing the guidance in the Notice shortly after this final rule is issued.

The Treasury Department and the IRS expect that the main effect of this rulemaking with Notice 2019–12 would be to reduce the incentive for individual taxpayers to reallocate state and local taxes from general public funds to funds designated for specific public purposes, solely to generate a charitable gift for federal tax purposes. These transfers from one public fund to another would not be substantive in nature and therefore are not anticipated to generate real economic effects. The rulemaking with Notice 2019–12 would also increase compliance and administrative costs for some taxpayers and charitable entities but decrease them for others. As discussed in Part V of the Special Analyses, the Treasury Department and the IRS expect these effects are likely small and, on net, expect a reduction in compliance burdens (because fewer transactions performed solely for tax avoidance will be undertaken).

The rulemaking with Notice 2019–12 may also marginally reduce the incentive to make contributions to charitable organizations that result in state and local tax credits, which may have the effect of reducing aggregate contributions. But the Treasury Department and the IRS expect this effect to be small. For example, for an individual taxpayer who claims itemized deductions on a Federal income tax return, has more than $10,000 of state and local tax liability, and has a Federal marginal tax rate of 24%, a $1,000 contribution to an organization described in section 170(c) that gives rise to a dollar-for-dollar state tax credit in exchange for the contribution yields a combined $1,240 of tax benefits under the baseline ($240 from the deduction under section 170(a) and $1,000 from the state tax credit). Under the rulemaking with Notice 2019–12, the same $1,000 contribution yields only $1,000 in tax benefits. A substantial incentive to give to the organization still exists (as the cost of giving is $0), though that incentive is reduced because of the rulemaking.

In addition, the direct incentive to make contributions to organizations that do not give rise to state or local tax credits is unchanged by the rulemaking with Notice 2019–12. The reduction in the relative benefit of contributing to organizations that result in state or local credits might induce some taxpayers to contribute to other organizations instead. However, this effect may be modest because the tax benefit of donating to an organization eligible for a large state tax or local credit is still greater than the benefit of donating to another charitable organization. (See column A versus column B for each example in Table 1.) Moreover, transfers between similar charitable organizations (or between the state and a charitable organization generating a state or local tax credit) might have little or no effect on the ultimate beneficiaries of the charitable organizations or on consumers of public goods.

As noted earlier, E.O. 12866 calls for quantitative analysis to the extent feasible. One commenter to the proposed regulations also stated that the analyses should have included quantitative estimates of the costs and benefits of the rule, including estimates of the potential size of state and local tax credits, federal revenue losses, and efficiency losses. The commenter further stated that without quantitative estimates it is not known ''whether the potential problem is significant enough to justify this change in tax regulations.''

The Treasury Department and the IRS provide in this Special Analyses an economic analysis, including to the extent feasible, quantitative estimates that offer context regarding the scope of possible impacts arising out of these final regulations. In particular the Treasury Department and the IRS provide examples of how different types of taxpayers would or would not be affected by this rulemaking as well as estimates of the shares of taxpayers potentially affected by the rulemaking with Notice 2019–12. However, because taxpayers do not report whether a charitable donation has given rise to a state or local tax credit, the extent to which states would create new tax credit programs and taxpayers would make contributions to such programs under the baseline or regulations is uncertain, and the extent to which the welfare of the ultimate beneficiaries of such charitable contributions or state spending is uncertain, the Treasury Department and the IRS have not quantified the non-revenue economic effects of the rule.

## IV. Illustrative Scenarios [2]

For the following illustrative scenarios, assume the following facts: Charitable organizations A and B are entities described in section 170(c) and are equally efficient in providing similar public goods. Contributions to charity A are eligible for a dollar-for-dollar state tax credit. Contributions to charity B are ineligible for this credit but are deductible from state taxable income. The taxpayer itemizes deductions, and

[2] While the illustrative scenarios and the analysis that follow focuses on individual taxpayers, the final regulations also apply to business taxpayers. Businesses making payments to entities described in section 170(c), however, may deduct certain of these payments as ordinary and necessary business expenses under section 162. In addition, Rev. Proc. 2019–12, 2019–04 I.R.B. 401, provides safe harbors under section 162 for certain payments by businesses. Therefore, the Treasury Department and the IRS expect that few business donors would be impacted by the final regulations.

these itemized deductions in aggregate are at least $1,000 more than the standard deduction. The taxpayer has the choice to contribute $1,000 to charity A, and this $1,000 contribution generates a state tax credit of $1,000.[3] That is, the tax credit is dollar-for-dollar but does not otherwise figure into the calculation of the taxpayer's state tax liability. The taxpayer has more than $1,000 of state tax liability, so that the taxpayer's state tax liability is reduced by the entire $1,000 of the state tax credit. Finally, if the taxpayer makes the $1,000 contribution that generates a state tax credit of $1,000, the taxpayer reduces by $1,000 the withholding and payments of state tax during the taxable year in question. The state tax liability is therefore reduced by the full amount of the state tax credit in the same taxable year as the contribution is made.[4] Further assume a taxpayer is in the 24 percent federal tax bracket, itemizes federal tax deductions, and has a state tax rate of 5 percent. If the taxpayer is subject to the AMT, assume an AMT marginal tax rate of 26 percent.

The Act, this rule, and the safe harbor for certain individuals described in Notice 2019–12 alter the incentives some taxpayers face about whether and how much to give to organizations that receive charitable contributions, as well as to which organizations. This is illustrated in the following scenarios, which are also summarized in Table 1.

*A. Prior Law: Section 170 Charitable Contributions Prior to the Act*

The tax effects of contributions prior to enactment of the Act are illustrated in the columns labeled ''Prior Law'' in Table 1.

1. Taxpayer Not Subject to the AMT

Prior to enactment of the Act, if the taxpayer made a $1,000 contribution to charity A that generated a state tax credit of $1,000, the deduction for charitable contributions under section 170(a) increased by $1,000, and the taxpayer's liability for state and local taxes deductible under section 164 decreased by $1,000. The taxpayer's itemized deductions, taxable income, and federal tax liability were unchanged from what they would have been in the absence of the contribution.[5] The taxpayer's state tax liability decreased by $1,000 because of the state tax credit. The combined federal and state tax benefits of the $1,000 contribution were therefore $1,000, and the cost to the taxpayer and to the federal government of making the contribution was $0. This is shown in column A under Prior Law for Example 1 in Table 1 and replicated in the same column for Example 2.

2. Taxpayer Subject to the AMT

If the taxpayer were subject to the AMT under section 55, however, there was a net benefit to the taxpayer from contributions to charity A, which provided state tax credits. State and local taxes are not deductible in determining taxable income under the AMT, but charitable contributions are deductible in determining taxable income under the AMT. If the taxpayer contributed $1,000, taxable income under the AMT was reduced by $1,000 due to the charitable contribution deduction under section 170, but there was no corresponding reduction in the deduction for state and local taxes. Under an AMT marginal tax rate of 26 percent, the federal tax benefit of this $1,000 contribution would be $260. Because of the dollar-for-dollar state tax credit, the taxpayer received a combined federal and state tax benefit of $1,260 for a $1,000 contribution; that is, the taxpayer received $260 *more* in tax benefits than the amount of the contribution. This is shown in column A under Prior Law for Example 3 in Table 1.

3. Comparison of Contributions to Different Organizations Under Prior Law

In combination, state and federal tax laws generally provide a greater incentive to contribute to organizations eligible for state tax credits (charity A) than to other organizations (charity B). The effects of a contribution to charity A are described in Parts IV.A1 and IV.A2 previously.

Prior to enactment of the Act, for a taxpayer not subject to the AMT, a $1,000 contribution to charity B yielded a smaller combined federal and state tax benefit than to charity A. The state tax benefit was $50 ($1,000 multiplied by the 5 percent state tax rate). The taxpayer's itemized deductions at the federal level increased by $950 (the $1,000 charitable contribution deduction less the $50 reduction in state taxes paid). The federal tax benefit of this increase was $228 ($950 multiplied by the 24 percent federal tax rate), resulting in a combined federal and state tax benefit of $278. The net cost to the taxpayer of the $1,000 contribution was $722. This is shown in column B under Prior Law for Example 1 in Table 1 and replicated in the same column for Example 2.

For a taxpayer subject to the AMT, a $1,000 contribution to charity B yielded a combined federal and state benefit of $310—the $1,000 contribution multiplied by the taxpayer's marginal tax rate under the AMT of 26 percent, or $260, plus the value of the deduction from state tax, or $50 ($1,000 multiplied by the 5 percent state tax rate). The net cost to the taxpayer of the $1,000 contribution was $690. This is shown in column B under Prior Law for Example 3 in Table 1.

Contributing to either charity A or charity B reduced the taxpayer's combined federal and state tax liability, but the existence of the state tax credit for contributions to charity A made contributions to that organization more attractive. This is seen by comparing the Total Tax Benefit in column A under Prior Law to the corresponding value in column B for each of the three examples. For taxpayers not subject to the AMT, contributions to charity A yielded a combined federal and state tax benefit of $1,000, compared to a combined federal and state tax benefit of $278 for a contribution to charity B. The AMT increased the disparity for contributions to charity A versus charity B, resulting in a combined federal and state tax benefit of $1,260 for a contribution to charity A versus $310 for a contribution to charity B.

*B. Examples of Current Law and Practices Under the Act and Final Rule With Notice 2019–12*

The enactment of the SALT limitation in the Act has, in limited circumstances, altered the federal tax effects of charitable contributions as described in the following examples. These are illustrated in the columns labeled ''Baseline'' and ''Final Rule with Notice 2019–12'' in Table 1.

1. Example 1: Taxpayer Is Above the SALT Limitation and Not Subject to the AMT

a. Baseline

If a taxpayer who has a state tax liability of more than $1,000 above the SALT limitation and is not subject to the AMT makes a $1,000 contribution to charity A, the deduction for charitable contributions under section 170(a)

[3] Note that this analysis only addresses state tax credits offering a 100% benefit. The results may differ for credits offering a lower benefit, but the comparative results of the illustrative examples would be similar.

[4] The results of the examples are generally unchanged if the taxpayer instead receives the credit as a refund of state taxes paid that were deducted from federal taxable income, as such refund would be includible in federal taxable income in the following year.

[5] This assumes the taxpayer was not subject to limitations such as the overall limitation on itemized deductions under section 68 or subject to a percentage limitation for the deduction under section 170, an assumption that is maintained throughout the succeeding discussion.

increases by $1,000, but the deduction for state and local taxes paid under section 164 is unchanged. Consequently, itemized deductions increase by $1,000, and taxable income decreases by $1,000. If the taxpayer is in the 24 percent bracket, federal liability will decrease by $240, and state tax liability will decrease by the $1,000 state tax credit. The combined federal and state tax benefits of the $1,000 contribution are therefore $1,240, and the taxpayer receives a $240 net benefit while the federal government has a loss of $240. This is shown in column A under Baseline for Example 1 in Table 1.

b. Final Rule With Notice 2019–12

If the same taxpayer makes the $1,000 contribution to charity A under the rule with Notice 2019–12, the entire $1,000 contribution is not deductible under section 170(a), and the deduction for state and local taxes paid under section 164 is unchanged due to the SALT limitation. The taxpayer's itemized deductions, taxable income, and federal tax liability are unchanged from what they would be in the absence of the contribution. The taxpayer's state tax liability decreases by $1,000 because of the state tax credit. The combined federal and state tax benefits of the $1,000 contribution are therefore $1,000, or $240 less than under the baseline. This is shown by comparing the Total Tax Benefit in column A under Final Rule with Notice 2019–12 with the corresponding value in column A under Baseline for Example 1 in Table 1. However, the benefit of the contribution for this taxpayer is the same as the taxpayer faced prior to enactment of the Act. This is shown by comparing the Total Tax Benefit under column A under Final Rule with Notice 2019–12 with the corresponding value in column A under Prior Law for Example 1 in Table 1.

c. Comparison of Contributions to Different Organizations and Final Rule With Notice 2019–12

Under the baseline and this rule with Notice 2019–12, for a taxpayer with state and local taxes paid over the SALT limitation, the value of a contribution to charity B, that is a contribution that results in a one-for-one state income tax deduction and not a state tax credit, is slightly higher than it was pre-Act. This increase is because the state deduction does not reduce the federal deduction for state and local taxes for a taxpayer above the SALT limitation. As shown in the Total Tax Benefit row under the B columns for Example 1, under the baseline and this rule with Notice 2019–12, the value of a $1,000 contribution to charity B is $290—the charitable contribution deduction from federal tax ($1,000 multiplied by the 24 percent federal tax rate, or $240), plus the value of the deduction from state tax ($1,000 multiplied by the 5 percent state tax rate, or $50)—compared to $278 for contributions under prior law (described in Part IV.A3 previously). By comparison, as shown in the Total Tax Benefit row under the A columns for Example 1, a contribution to charity A, eligible for a state tax credit, yields a $1,240 tax benefit under the baseline and a $1,000 benefit under this rule with Notice 2019–12.

2. Example 2: Taxpayer Is Below the SALT Limitation and Not Subject to the AMT

a. Baseline

If a taxpayer who has state and local taxes paid below the SALT limitation and is not subject to the AMT makes the $1,000 contribution to charity A, the deduction for charitable contributions under section 170(a) increases by $1,000, and the deduction for state and local taxes paid under section 164 decreases by $1,000. The taxpayer's itemized deductions, taxable income, and federal tax liability are unchanged from what they would be in the absence of the contribution. The taxpayer's state tax liability decreases by $1,000 because of the state tax credit. The combined federal and state tax benefits of the $1,000 contribution are therefore $1,000, and the cost to the taxpayer and to the federal government of making the contribution is $0. This situation is identical to prior law or what the taxpayer faced prior to enactment of the Act. This is shown is column A under Baseline and Prior Law for Example 2 in Table 1.

b. Final Rule With Notice 2019–12

If the same taxpayer makes the $1,000 contribution to charity A under the proposed rule, the entire $1,000 contribution is not deductible under section 170(a), but the deduction for state and local taxes paid under section 164 still decreases by $1,000 because of the $1,000 state tax credit. If the taxpayer is in the 24 percent bracket, the federal tax liability will increase by $240. The taxpayer's state tax liability decreases by the $1,000 state tax credit. The combined federal and state tax benefits of the $1,000 contribution are therefore $760, or $240 less than the baseline. This is shown by comparing the Total Tax Benefit in column A under Proposed Rulemaking with the corresponding value in column A under Baseline for Example 2. In this case, the proposed rule has the effect of increasing the taxpayer's federal taxable income compared to the baseline if the taxpayer makes a contribution to charity A.

One commenter to the proposed regulations suggested that Example 2 be revised to indicate that the purported donation is a tax for purposes of section 164 if the state is the donee. As noted earlier in the preamble, that issue is outside of the scope of these regulations, but the Treasury Department and the IRS have issued Notice 2019–12, which provides a safe harbor for certain individuals. As described earlier in the preamble, under the safe harbor, an individual who itemizes deductions and who makes a payment to a section 170(c) entity in return for a state or local tax credit may treat the portion of such payment that is disallowed as a charitable contribution deduction under section 170 as a payment of state or local tax for purposes of section 164. This disallowed portion of the payment may be treated as a payment of state or local tax under section 164 when the individual applies the credit to offset the individual's state or local tax liability.

Under the final rule with Notice 2019–12, if the same taxpayer makes the $1,000 contribution to charity A, the entire $1,000 contribution is not deductible under section 170(a), but the deduction for state and local taxes paid under section 164 is unchanged because of the safe harbor. The taxpayer's federal liability is unchanged. The taxpayer's state tax liability decreases by the $1,000 state tax credit. The combined federal and state tax benefits of the $1,000 contribution are therefore $1,000, the same as under prior law and the baseline. This is shown by comparing the Total Tax Benefit in column A under Final Rule with Notice 2019–12 with the corresponding value in column A under Baseline for Example 2.

c. Comparison of Contributions to Different Organizations, Under Prior Law, Baseline, and Final Rule With Notice 2019–12

Under the baseline scenario and this final rule with Notice 2019–12, the tax benefit of charitable contributions to charity B, which are not eligible for a state tax credit but are deductible from both federal and state taxable income, is unchanged from prior law for taxpayers below the SALT limitation. Thus, in this example, the benefit of making a contribution to charity B remains $278, as described previously. This is shown in the Total Tax Benefit row under the

B columns for Example 2. By comparison, as shown in the Total Tax Benefit row under the A columns for Example 2, a $1,000 contribution to charity A, eligible for a state tax credit, yields a $1,000 tax benefit under the baseline and under the final rule with Notice 2019–12. Under the final rule with Notice 2019–12 contributions to charity A are less costly than contributions to charity B in the same manner as under prior law for taxpayers with itemized state and local tax deductions of $10,000 or less.

3. Example 3: Taxpayer Is Subject to the AMT [6]

a. Baseline

If a taxpayer subject to the AMT makes a $1,000 contribution to charity A, the contribution reduces the taxpayer's taxable income under the AMT by $1,000. Using an AMT marginal tax rate of 26 percent, the federal tax benefit of this $1,000 contribution is $260. Because of the dollar-for-dollar state tax credit, the taxpayer would receive a combined federal and state tax benefit of $1,260 for a $1,000 contribution, or a $260 net benefit. This result is identical to the result under prior law (prior to enactment of the Act). This is shown in the A columns under Baseline and Prior Law for Example 3 in Table 1.

b. Final Rule With Notice 2019–12

If the same taxpayer makes the $1,000 contribution to charity A under the final rule with Notice 2019–12, the entire $1,000 is not deductible under section 170(a). Therefore, the taxpayer's taxable income and federal tax liability under the AMT would be unchanged from what they would be in the absence of the contribution. The taxpayer's state tax liability decreases by $1,000 because of the state tax credit. The combined federal and state tax benefits of the $1,000 contribution are therefore $1,000, or $260 less than under the baseline and under the law prior to enactment of the Act. This is shown by comparing the A columns of Example 3 in Table 1. However, under the rule, taxpayers subject to the AMT are in the same position as other taxpayers making a $1,000 contribution to charity A. This is shown by comparing the Total Tax Benefit amount under column A for the Final Rule with Notice 2019–12 for Example 3 to that for Examples 1 and 2.

[6] The Act increased the amount of income exempt from AMT. The Treasury Department estimates that in 2018 only about 150,000 taxpayers will be subject to the AMT under the Act, compared to more than 5 million under prior law.

c. Comparison of Contributions to Different Organizations, Under Prior Law, Baseline and Final Rule With Notice 2019–12

Under the baseline and the final rule with Notice 2019–12, the treatment of charitable contributions that are deductible from both federal and state taxable income is unchanged from prior law for taxpayers subject to the AMT. This is shown in the B columns for Example 3 in Table 1. In this example, the benefit of making a contribution to charity B remains $310, as described previously for contributions under prior law. By comparison, a contribution to a charity A, eligible for a state tax credit, yields a $1,260 tax benefit under the baseline and a $1,000 benefit under the final rule with Notice 2019–12. This is shown in column A under Baseline and Final Rule with Notice 2019–12 for Example 3 in Table 1.

4. Example 4: State Tax Credit of 15 Percent or Less

Suppose, for this example only, that contributions to charity A generate a state tax credit with a rate of 10 percent, instead of 100 percent as described in Examples 1 through 3. If a taxpayer makes the $1,000 contribution to charity A under the final rule with Notice 2019–12, the deduction for charitable contributions under section 170(a) increases by $1,000. The deduction under section 170(a) is not reduced by the value of the credit because it does not exceed 15 percent. Thus, the taxpayer's federal tax liability is the same under the final regulations as under the baseline. The result is also the same as it would have been if the taxpayer's marginal state tax rate were 10 percent and the taxpayer were allowed a dollar-for-dollar deduction from state taxable income instead of a credit.

If the taxpayer is above the SALT limitation or subject to the AMT, the taxpayer's taxable income under the regular tax and under the AMT decreases by $1,000. If the taxpayer is not subject to the AMT and is in the 24 percent bracket, federal tax liability will decrease by $240, and state tax liability will decrease by $100. The combined federal and state tax benefits of the $1,000 contribution are therefore $340. If the taxpayer is subject to the AMT and has an AMT marginal tax rate of 26 percent, federal tax liability will decrease by $260, and state tax liability will decrease by $100, yielding a combined federal and state benefit of $360 for the $1,000 contribution.

If the taxpayer is below the SALT limitation, the taxpayer's deduction for state and local taxes treated as paid under section 164 decreases by $100, and the taxpayer's taxable income decreases by $900. If the taxpayer is in the 24 percent bracket, federal tax liability will decrease by $216, and state tax liability will decrease by $100. The combined federal and state tax benefits of the $1,000 contribution are therefore $316.

## V. Expected Benefits and Costs

### *A. Benefits*

This regulation likely reduces economically inefficient choices motivated by the potential tax benefits available if this regulation were not promulgated. Under the prior law and baseline scenarios, state and local governments have an incentive to fund governmental activities through entities that are eligible to receive deductible contributions and to establish tax credits. This incentive is particularly strong under a SALT limitation scenario where state and local governments may do so solely to enable some taxpayers to circumvent the SALT limitation. The final rule with Notice 2019–12 substantially diminishes this incentive to engage in economically inefficient tax-avoidance behavior. As a result, it is expected that fewer such credit programs would be established in the future under the rule than under the baseline.

To the extent this result occurs, the Treasury Department and the IRS estimate that this rule would reduce the overall complexity burden for states and for taxpayers who would otherwise make charitable contributions solely for the purpose of reducing their state and local tax liability. In addition, the Treasury Department and the IRS anticipate that the rule will also spare some taxpayers compliance costs associated with complex tax planning designed to avoid the SALT limitation.

In addition, the rule is expected to make the federal tax system more neutral to taxpayers' decisions regarding making donations to state and local tax credit programs versus making donations to other, similar charitable organizations that do not give rise to state or local tax credits. Under the baseline scenarios, the combined federal and state tax benefits favor contributions to organizations that give rise to a state tax credit for taxpayers, particularly for taxpayers above the SALT limitation. Under the final rule and Notice 2019–12, this economic distortion is expected to be reduced.

The proposed regulations requested comments from the public on the potential extent of this expected

reduction in economic distortion. One commenter responded that increased neutrality in the treatment of contributions to organizations that qualify for tax credits and those that do not is not a benefit of the rule. The commenter argued that such a conclusion ignores the possibility that tax credit programs provide a social benefit. The conclusion in the proposed regulations does not ignore the social benefits that tax credit programs might provide. The Treasury Department and the IRS have clarified in Part IV previously that their analysis was specific to cases where two organizations, one eligible for tax credits and the other not, are equally efficient in their provision of similar public goods. That is, both provide the same social benefit given the same level of contributions.

Finally, the final rule provides more certainty to taxpayers by clarifying the rules governing the amount that they can claim as a charitable contribution deduction when they receive or expect to receive a state or local tax credit or a state or local tax deduction in exchange for the contribution.

One commenter asserted that increased certainty is not a benefit of this rule because other possible rules could also have provided certainty. While the commenter is correct that rules other than the proposed and final rule could also provide certainty, it remains the case that the proposed and final rule provide the benefit of certainty, relative to the baseline of no regulatory guidance at all.

One commenter suggested that the proposed rule would be beneficial because it would promote more efficient state and local spending decisions by making taxpayers bear more of the true cost of those decisions. The SALT limitation imposed by the Act reduced the federal subsidy of state and local spending, and the rule is consistent with this purpose of the Act provision. The reduction in the subsidy has the potential to make state spending decisions more efficient.

*B. Costs*

The rule may result in some increase in compliance costs for taxpayers who make contributions that generate state or local tax credits. Under the baseline, for purposes of the charitable contribution deduction under section 170(a), taxpayers did not need to address state or local tax credits received or expected to be received for purposes of claiming a charitable contribution; however, they would know the amount of credits received as part of the filing process for state returns. In contrast, under the final rule with Notice 2019–12, taxpayers making a contribution to an organization described in section 170(c) will need to determine the amount of any state or local tax credits they received or expect to receive in order to reduce their charitable contribution deduction under section 170(a). This additional step will generate some additional compliance costs.

The compliance burden for recipient organizations that directly issue tax credits may increase under the rule. Under section 170(f)(8), in order to take a charitable contribution deduction of $250 or more, a taxpayer must have a contemporaneous written acknowledgment (CWA) from the donee entity, usually provided in the form of a letter. The CWA includes the amount received by the entity or a description of property received. The CWA must also disclose whether the donee provided any goods or services in consideration for the contribution and a description and good faith estimate of the value of those goods or services. State and local tax credits are not generally provided by the donee entity, but there may be situations in which the entity would be providing the credit and would need to disclose the credit amount in the CWA provided to the donor. The proposed regulations requested comments on whether additional guidance is needed on substantiation and reporting requirements for donors and donees making or receiving payments or transfers of property in return for state and local tax credits and the extent to which entities do provide tax credits under certain circumstances. As mentioned earlier in this preamble, some commenters expressed concerns about substantiation of a charitable contribution when the donee does not know whether the donor receives or expects to receive a state or local tax credit. If a donee is not the entity providing the credit, the CWA rules do not require that the amount of the credit be reported in the acknowledgment. This mitigates the compliance burden for these entities.

The proposed regulations requested comments as to how the rule might alter incentives regarding contributions to state and local tax credit programs. As mentioned previously in the preamble, many commenters expressed concern that the rule would result in an overall decline in charitable giving and in declines in charitable giving to entities or causes they deem to be particularly meritorious. One commenter expressed concern about the lack of evidence provided in support of the statement that this rule will have at most a highly limited, marginal effect on taxpayer decisions to donate to tax credit programs, and the statement that most taxpayers have never contributed to such programs. Another commenter asserted that the rule would cause states to drop tax credit programs that support conservation easements. The commenter noted that this was particularly likely to occur in low-tax states, where more taxpayers will have SALT deductions under $10,000. Several other commenters asserted that a substantial share of donors to tax credit organizations would be affected by the rule.

Based on an analysis of confidential taxpayer return data and forecasts using that data, the Treasury Department and the IRS estimate that this rule will leave charitable giving incentives entirely unchanged for the vast majority of taxpayers. The Treasury Department and the IRS estimate that, after passage of the Act (which significantly increased the standard deduction), 90 percent of taxpayers will not claim itemized deductions of any kind. Those taxpayers are entirely unaffected by this rule.

Approximately five percent of taxpayers are projected to claim itemized deductions and have state and local income tax deductions in excess of the SALT limitation. Under the rule and Notice 2019–12, taxpayers in this group who are not subject to the AMT will receive the same federal tax treatment for donating to organizations providing tax credits as they received prior to the Act, as shown in Example 1 in Table 1 of this special analysis.

Approximately five percent of taxpayers are projected to claim itemized deductions and have SALT deductions below the limitation. Taxpayers in this group who are not subject to the AMT would have faced smaller incentives to donate to organizations resulting in state or local tax credits in excess of 15 percent under the proposed rule. However, these taxpayers will receive the same federal tax benefits for cash contributions under the final rule and Notice 2019–12 as they received prior to the Act and under the baseline, as described in Example 2 in Table 1 of this special analysis.[7]

It is the case that, for taxpayers subject to the AMT, the cost of giving to state and local credit organizations is higher under the rule with Notice 2019–12 than under the baseline and under prior law. The Treasury Department and the IRS estimate that fewer than 150,000

[7] Taxpayers who contribute property do not satisfy the requirements of the safe harbor provided in Notice 2019–12 and may be impacted by the final regulations.

taxpayers (less than 0.1 percent of taxpayers) will be subject to the AMT and claim itemized deductions after enactment of the Act. These taxpayers could be affected by the final rule, but only if they contribute to programs that entitle them to state and local tax credits of greater than 15 percent. (The tax data do not indicate whether a taxpayer has made a contribution that generated a state or local tax credit.) However, as described in Example 3 in Table 1 of this special analysis, the cost of contributing to an organization resulting in a 100 percent state tax credit will be zero for these taxpayers, as it is for other taxpayers under the final rule with Notice 2019–12.

TABLE 1—TAX TREATMENT OF $1,000 CONTRIBUTION TO (A) ORGANIZATION THAT GIVES RISE TO $1,000 STATE TAX CREDIT AND (B) ORGANIZATION FOR WHICH CONTRIBUTION IS DEDUCTIBLE AT THE STATE LEVEL

| Change in | Prior law | | Baseline | | Proposed rulemaking | | Final rule with notice 2019–12 | |
|---|---|---|---|---|---|---|---|---|
| | A | B | A | B | A | B | A | B |
| **Example 1: Taxpayer Above the SALT Limitation, Not Subject to the AMT; Taxpayer Remains Above SALT Limitation After Contribution** | | | | | | | | |
| State Income Tax Liability | −1,000 | −50 | −1,000 | −50 | −1,000 | −50 | −1,000 | −50 |
| Federal Income Tax: | | | | | | | | |
| Charitable Contribution Deduction | 1,000 | 1,000 | 1,000 | 1,000 | 0 | 1,000 | 0 | 1,000 |
| Deduction for State and Local Taxes | −1,000 | −50 | 0 | 0 | 0 | 0 | 0 | 0 |
| Itemized Deductions | 0 | 950 | 1,000 | 1,000 | 0 | 1,000 | 0 | 1,000 |
| Taxable Income | 0 | −950 | −1,000 | −1,000 | 0 | −1,000 | 0 | −1,000 |
| Federal Tax Liability | 0 | −228 | −240 | −240 | 0 | −240 | 0 | −240 |
| Total Tax Benefit (Federal + State) | 1,000 | 278 | 1,240 | 290 | 1,000 | 290 | 1,000 | 290 |
| Net Cost to Taxpayer of $1,000 Contribution | 0 | 722 | −240 | 710 | 0 | 710 | 0 | 710 |
| **Example 2: Taxpayer Below the SALT Limitation, Not Subject to the AMT** | | | | | | | | |
| State Income Tax Liability | −1,000 | −50 | −1,000 | −50 | −1,000 | −50 | −1,000 | −50 |
| Federal Income Tax: | | | | | | | | |
| Charitable Contribution Deduction | 1,000 | 1,000 | 1,000 | 1,000 | 0 | 1,000 | 0 | 1,000 |
| Deduction for State and Local Taxes | −1,000 | −50 | −1,000 | −50 | −1,000 | −50 | 0 | −50 |
| Itemized Deductions | 0 | 950 | 0 | 950 | −1,000 | 950 | 0 | 950 |
| Taxable Income | 0 | −950 | 0 | −950 | 1,000 | −950 | 0 | −950 |
| Federal Tax Liability | 0 | −228 | 0 | −228 | 240 | −228 | 0 | −228 |
| Total Tax Benefit (Federal + State) | 1,000 | 278 | 1,000 | 278 | 760 | 278 | 1,000 | 278 |
| Net Cost to Taxpayer of $1,000 Contribution | 0 | 722 | 0 | 722 | 240 | 722 | 0 | 722 |
| **Example 3: Taxpayer Subject to the AMT** | | | | | | | | |
| State Income Tax Liability | −1,000 | −50 | −1,000 | −50 | −1,000 | −50 | −1,000 | −50 |
| Federal Income Tax: | | | | | | | | |
| Alternative Minimum Taxable Income | −1,000 | −1,000 | −1,000 | −1,000 | 0 | −1,000 | 0 | −1,000 |
| Federal Tax Liability | −260 | −260 | −260 | −260 | 0 | −260 | 0 | −260 |
| Total Tax Benefit (Federal + State) | 1,260 | 310 | 1,260 | 310 | 1,000 | 310 | 1,000 | 310 |
| Net Cost to Taxpayer of $1,000 Contribution | −260 | 690 | −260 | 690 | 0 | 690 | 0 | 690 |

Assumptions: The taxpayer itemizes deductions and has more than $1,000 of state tax liability. Under prior law, the taxpayer is not subject to the overall limitation on itemized deductions under section 68. The taxpayer faces a 24 percent marginal rate under the Federal income tax. If the taxpayer is subject to the AMT, the taxpayer faces a 26 percent marginal rate. A $1,000 contribution to charitable organization A generates a $1,000 state tax credit. A $1,000 contribution to charitable organization B is ineligible for a state tax credit but is deductible under the state's income tax. The taxpayer faces a 5 percent marginal rate under the state's income tax. The baseline assumes continuation of the IRS administrative position that state and local tax credits are not reflected as a return benefit or consideration and therefore do not reduce the taxpayer's charitable contribution deduction under section 170(a). Total Tax Benefit refers to the absolute value of the reduction of the taxpayer's combined federal and state tax liability.

## Regulatory Flexibility Act

As noted previously, pursuant to the RFA (5 U.S.C. chapter 6), it is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the regulations primarily affect individuals. It is possible for a small business donor to be affected by this rule. However, small entities will often be able to claim a business expense deduction instead of a charitable donation, and would therefore be unaffected by the rule. For the very few small entity donors that might nevertheless choose to claim a charitable donation deduction and might be directly affected by the regulation, there is no significant economic impact. The rule would impose only nominal costs of subtracting the amount of the credit from the amount contributed, in order to determine the deduction allowed under section 170. There is no collection of information requirement on small entities. Therefore, a regulatory flexibility analysis is not required. Pursuant to section 7805(f), the proposed regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses, and no comments were received.

## Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a state, local, or tribal government, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. In 2018, that threshold is approximately $150 million. This rule does not include any Federal mandate that may result in expenditures by state, local, or tribal governments, or by the private sector in excess of that threshold.

## Executive Order 13132: Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on state and local governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements

of section 6 of the Executive Order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

**Congressional Review Act**

The Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget has determined that this is a major rule for purposes of the Congressional Review Act (CRA) (5 U.S.C. 801 *et seq.*).

**Drafting Information**

The principal authors of these regulations are personnel from the Office of the Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and the Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Adoption of Amendments to the Regulations**

Accordingly, 26 CFR part 1 is amended as follows:

## PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.170A–1 is amended by redesignating paragraphs (h)(3) through (5) as paragraphs (h)(4) through (6), and adding a new paragraph (h)(3) to read as follows:

**§ 1.170A–1 Charitable, etc., contributions and gifts; allowance of deduction.**

* * * * *

(h) * * *

(3) *Payments resulting in state or local tax benefits*—(i) *State or local tax credits.* Except as provided in paragraph (h)(3)(vi) of this section, if a taxpayer makes a payment or transfers property to or for the use of an entity described in section 170(c), the amount of the taxpayer's charitable contribution deduction under section 170(a) is reduced by the amount of any state or local tax credit that the taxpayer receives or expects to receive in consideration for the taxpayer's payment or transfer.

(ii) *State or local tax deductions*—(A) *In general.* If a taxpayer makes a payment or transfers property to or for the use of an entity described in section 170(c), and the taxpayer receives or expects to receive state or local tax deductions that do not exceed the amount of the taxpayer's payment or the fair market value of the property transferred by the taxpayer to the entity, the taxpayer is not required to reduce its charitable contribution deduction under section 170(a) on account of the state or local tax deductions.

(B) *Excess state or local tax deductions.* If the taxpayer receives or expects to receive a state or local tax deduction that exceeds the amount of the taxpayer's payment or the fair market value of the property transferred, the taxpayer's charitable contribution deduction under section 170(a) is reduced.

(iii) *In consideration for.* For purposes of paragraph (h)(3)(i) of this section, the term *in consideration for* shall have the meaning set forth in § 1.170A–13(f)(6), except that the state or local tax credit need not be provided by the donee organization.

(iv) *Amount of reduction.* For purposes of paragraph (h)(3)(i) of this section, the amount of any state or local tax credit is the maximum credit allowable that corresponds to the amount of the taxpayer's payment or transfer to the entity described in section 170(c).

(v) *State or local tax.* For purposes of paragraph (h)(3) of this section, the term *state or local tax* means a tax imposed by a State, a possession of the United States, or by a political subdivision of any of the foregoing, or by the District of Columbia.

(vi) *Exception.* Paragraph (h)(3)(i) of this section shall not apply to any payment or transfer of property if the total amount of the state and local tax credits received or expected to be received by the taxpayer is 15 percent or less of the taxpayer's payment, or 15 percent or less of the fair market value of the property transferred by the taxpayer.

(vii) *Examples.* The following examples illustrate the provisions of this paragraph (h)(3). The examples in paragraph (h)(6) of this section are not illustrative for purposes of this paragraph (h)(3).

(A) *Example 1.* A, an individual, makes a payment of $1,000 to X, an entity described in section 170(c). In exchange for the payment, A receives or expects to receive a state tax credit of 70 percent of the amount of A's payment to X. Under paragraph (h)(3)(i) of this section, A's charitable contribution deduction is reduced by $700 (0.70 × $1,000). This reduction occurs regardless of whether A is able to claim the state tax credit in that year. Thus, A's charitable contribution deduction for the $1,000 payment to X may not exceed $300.

(B) *Example 2.* B, an individual, transfers a painting to Y, an entity described in section 170(c). At the time of the transfer, the painting has a fair market value of $100,000. In exchange for the painting, B receives or expects to receive a state tax credit equal to 10 percent of the fair market value of the painting. Under paragraph (h)(3)(vi) of this section, B is not required to apply the general rule of paragraph (h)(3)(i) of this section because the amount of the tax credit received or expected to be received by B does not exceed 15 percent of the fair market value of the property transferred to Y. Accordingly, the amount of B's charitable contribution deduction for the transfer of the painting is not reduced under paragraph (h)(3)(i) of this section.

(C) *Example 3.* C, an individual, makes a payment of $1,000 to Z, an entity described in section 170(c). In exchange for the payment, under state M law, C is entitled to receive a state tax deduction equal to the amount paid by C to Z. Under paragraph (h)(3)(ii)(A) of this section, C's charitable contribution deduction under section 170(a) is not required to be reduced on account of C's state tax deduction for C's payment to Z.

(viii) *Effective/applicability date.* This paragraph (h)(3) applies to amounts paid or property transferred by a taxpayer after August 27, 2018.

* * * * *

**§ 1.170A–13 [Amended]**

■ **Par. 3.** Section 1.170A–13 is amended in paragraph (f)(7) by removing the cross-reference ''§ 1.170A–1(h)(4)'' and adding in its place ''§ 1.170A–1(h)(5)''.

■ **Par. 4.** Section 1.642(c)–3 is amended by adding paragraph (g) to read as follows:

**§ 1.642(c)–3 Adjustments and other special rules for determining unlimited charitable contributions deduction.**

* * * * *

(g) *Payments resulting in state or local tax benefits*—(1) *In general.* If the trust or decedent's estate makes a payment of gross income for a purpose specified in section 170(c), and the trust or decedent's estate receives or expects to receive a state or local tax benefit in consideration for such payment, § 1.170A–1(h)(3) applies in determining the charitable contribution deduction under section 642(c).

(2) *Effective/applicability date.* Paragraph (g)(1) of this section applies

to payments of gross income after August 27, 2018.

**Kirsten Wielobob,**

*Deputy Commissioner for Services and Enforcement.*

Approved: June 3, 2019.

**David J. Kautter,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 2019–12418 Filed 6–11–19; 4:15 pm]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket No. USCG–2019–0336]**

## Safety Zone; San Francisco Giants Fireworks Display, San Francisco Bay, San Francisco, CA

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Coast Guard will enforce the safety zone for the San Francisco Giants Fireworks Display in the Captain of the Port, San Francisco area of responsibility during the dates and times noted below. This action is necessary to protect life and property of the maritime public from the hazards associated with the fireworks display. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM) or other federal, state, or local law enforcement agencies on scene to assist the Coast Guard in enforcing the regulated area.

**DATES:** The regulation in 33 CFR 165.1191, Table 1, Item number 1, will be enforced from 11 a.m. on June 14, 2019, through 12:15 a.m. on June 15, 2019, or as announced via Broadcast Notice to Mariners.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or email Lieutenant Junior Grade Jennae N. Cotton, Waterways Management, U.S. Coast Guard Sector San Francisco; telephone (415) 399–3585, email *SFWaterways@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the safety zone established in 33 CFR 165.1191 Table 1, Item number 1 for the San Francisco Giants Fireworks Display from 11 a.m. on June 14, 2019 until 12:15 a.m. on June 15, 2019, or as announced via Broadcast Notice to Mariners. The San Francisco Giants Fireworks Display will commence at the conclusion of the San Francisco Giants game, but will not commence later than 11:30 p.m. on June 14, 2019. This notice is issued under authority of 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

The safety zone will extend to all navigable waters of the San Francisco Bay, from surface to bottom, within a circle formed by connecting all points 100 feet out from the fireworks barge during the loading, transit, and arrival of the fireworks barge from the loading location to the display location and until the start of the fireworks display. From 11 a.m. on June 14, 2019 until 5 p.m. on June 14, 2019, the fireworks barge will be loading pyrotechnics from Pier 50 in San Francisco, CA. The fireworks barge will remain at the loading location until its transit to the display location. From 8:30 p.m. to 9 p.m. on June 14, 2019 the loaded fireworks barge will transit from Pier 50 to the launch site near Pier 48 in approximate position 37°46′36″ N, 122°22′56″ W (NAD 83) where it will remain until the conclusion of the fireworks display. Upon the commencement of the 15-minute fireworks display, scheduled to begin at the conclusion of the baseball game, between approximately 10 p.m. and 11:30 p.m. on June 14, 2019, the safety zone will increase in size and encompass all navigable waters of the San Francisco Bay, from surface to bottom, within a circle formed by connecting all points 700 feet out from the fireworks barge near Pier 48 in approximate position 37°46′36″ N, 122°22′56″ W (NAD 83). This safety zone will be in effect from 11 a.m. on June 14, 2019 until 12:15 a.m. on June 15, 2019, or as announced via Broadcast Notice to Mariners.

In addition to this notice in the **Federal Register**, the Coast Guard plans to provide notification of the safety zone and its enforcement period via the Local Notice to Mariners.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM or other Official Patrol defined as a federal, state, or local law enforcement agency on scene to assist the Coast Guard in enforcing the regulated area. Additionally, each person who receives notice of a lawful order or direction issued by the PATCOM or Official Patrol shall obey the order or direction. The PATCOM or Official Patrol may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: June 6, 2019.

**Marie B. Byrd,**

*Captain, U.S. Coast Guard, Captain of the Port, San Francisco.*

[FR Doc. 2019–12468 Filed 6–12–19; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket Number USCG–2019–0221]**

**RIN 1625–AA00**

## Safety Zone for Fireworks Display; Upper Potomac River, Washington, DC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for certain waters of the Upper Potomac River. This action is necessary to provide for the safety of life on these navigable waters of the Upper Potomac River at Washington, DC, during a fireworks display on July 4, 2019 (with alternate date of July 5, 2019). This regulation prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Maryland-National Capital Region or a designated representative.

**DATES:** This rule is effective from 8 p.m. on July 4, 2019, through 10:30 p.m. on July 5, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0221 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Ron Houck, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

## I. Table of Abbreviations

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

## II. Background Information and Regulatory History

The National Park Service will be conducting a fireworks display, launched from the West Potomac Park, adjacent to the Upper Potomac River in Washington, DC, between 9:07 p.m. and 9:27 p.m. on July 4, 2019. In the event of inclement weather on July 4th, the fireworks display will be launched from the same location, during those same times, on July 5, 2019. The COTP Maryland-National Capital Region has determined that the display poses a safety concern for anyone within 1,000 feet of the fireworks discharge site—the potential exists for accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. Due to these safety concerns, on April 29, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM), ''Safety Zone for Fireworks Display; Upper Potomac River, Washington, DC'' (84 FR 17984). There we stated why we issued the NPRM, and invited comments on our proposal to create a safety zone in association with this fireworks display. During the comment period that ended May 29, 2019, we received one comment.

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

## III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Maryland-National Capital Region (COTP) has determined that potential hazards associated with the fireworks to be used in this July 4, 2019, display will be a safety concern for anyone within 1,000 feet of the fireworks discharge site. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

## IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one comment on our NPRM published April 29, 2019. The comment was in support of the Coast Guard's rulemaking. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone that the Coast Guard will enforce from 8 p.m. to 10:30 p.m. on July 4, 2019 (or, alternatively, during those same hours on July 5th). The safety zone will cover all navigable waters of the Upper Potomac River, including the Tidal Basin, within 1,000 feet of the fireworks discharge site at West Potomac Park in approximate position latitude 38°53′07.1″ N, longitude 077°02′49.5″ W, located at Washington, DC. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

## V. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

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

This regulatory action determination is based on the size, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone which will impact a small designated area of the Upper Potomac River for less than 3 hours during the evening when vessel traffic is normally low. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone.

### *B. Impact on Small Entities*

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

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

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

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

### *C. Collection of Information*

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

### *D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct

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

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

*E. Unfunded Mandates Reform Act*

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

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01 and 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 determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 2.5 hours that will prohibit entry within a portion of the Upper Potomac River, including the Tidal Basin, in Washington, DC. It is 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 Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

*G. Protest Activities*

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

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

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

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

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS

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

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

■ 2. Add § 165.T05–0221 to read as follows:

**§ 165.T05–0221 Safety Zone for Fireworks Display; Upper Potomac River, Washington, DC.**

(a) *Location.* The following area is a safety zone: All navigable waters of the Upper Potomac River, including the Tidal Basin, within 1,000 feet of the fireworks discharge site at West Potomac Park in approximate position latitude 38°53′07.1″ N, longitude 077°02′49.5″ W, located at Washington, DC. All coordinates refer to datum NAD 1983.

(b) *Definitions.* As used in this section:

(1) *Captain of the Port (COTP)* means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

(2) *Designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Maryland-National Capital Region to assist in enforcing the safety zone described in paragraph (a) of this section.

(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. All vessels underway within this safety zone at the time it is activated are to depart the zone.

(2) To seek permission to enter, contact the COTP or the COTP's designated representative by telephone at 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF–FM channel 16 (156.8 MHz).

(3) 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.

(d) *Enforcement officials.* 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 section will be enforced from 8 p.m. to 10:30 p.m. on July 4, 2019, or if necessary due to inclement weather, from 8 p.m. to 10:30 p.m. on July 5, 2019.

Dated: June 10, 2019.

**Joseph B. Loring,**

*Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.*

[FR Doc. 2019–12508 Filed 6–12–19; 8:45 am]

BILLING CODE 9110–04–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 355

**[EPA–HQ–OLEM–2018–0318; FRL–9995–03–OLEM]**

**RIN 2050–AH00**

## Amendment to Emergency Release Notification Regulations on Reporting Exemption for Air Emissions From Animal Waste at Farms; Emergency Planning and Community Right-to-Know Act

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA or the Agency) is amending the release notification regulations under the Emergency Planning and Community Right-to-Know Act (EPCRA) to add the reporting exemption for air emissions from animal waste at farms provided in section 103(e) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). In addition, EPA is adding definitions of ''animal waste'' and ''farm'' to the EPCRA regulations to delineate the scope of this reporting exemption. This amendment maintains consistency between the emergency release notification requirements of EPCRA and CERCLA in

accordance with the statutory text, framework and legislative history of EPCRA, and is consistent with the Agency's prior regulatory actions.

**DATES:** This final rule is effective July 15, 2019.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–HQ–OLEM–2018–0318. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Sicy Jacob, United States Environmental Protection Agency, Office of Land and Emergency Management, 1200 Pennsylvania Ave. NW, (Mail Code 5104A), Washington, DC 20460; telephone number: (202) 564–8019; email address: *jacob.sicy@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. General Information

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

A list of entities that could be affected by this final rule include, but are not necessarily limited to:

| Type of entity | Examples of affected entities |
|---|---|
| Industry | NAICS code 111—Crop production.<br>NAICS code 112—Animal production. |
| States and/or Local Governments | NAICS code 999200—State Government, excluding schools and hospitals.<br>NAICS code 999300—Local Government, excluding schools and hospitals.<br>State Emergency Response Commissions, Tribal Emergency Response Commissions, Tribal Emergency Planning Committees and Local Emergency Planning Committees. |

This table is not intended to be exhaustive, but rather provide a guide for readers regarding the types of entities that EPA is aware could be involved in the activities affected by this action. However, other types of entities not listed in this table could be affected by this final rule. To determine whether your entity is affected by this action, you should carefully examine the applicability criteria found in § 355.30 of title 40 of the Code of Federal Regulations (CFR). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

### *B. What action is the Agency taking?*

The EPA is amending the EPCRA emergency release notification regulations to include the reporting exemption for air emissions from animal waste at farms provided in CERCLA section 103(e). In addition, EPA is adding definitions of ''animal waste'' and ''farm'' to the EPCRA regulations to delineate the scope of this reporting exemption.

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

This final rule is being issued under EPCRA, which was enacted as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99–499). EPA finalizes this action under the authority of EPCRA section 304 (42 U.S.C. 11004) and the Agency's general rulemaking authority under EPCRA section 328 (42 U.S.C. 11048).

### *D. What is the background of this final rule?*

Section 103 of CERCLA requires the person in charge of a vessel or facility to immediately notify the National Response Center (NRC) when there is a release of a hazardous substance, as defined under CERCLA section 101(14), in an amount equal to or greater than the reportable quantity for that substance within a 24-hour period. In addition to these CERCLA reporting requirements, EPCRA section 304 requires owners or operators of certain facilities to immediately notify state and local authorities when there is a release of an extremely hazardous substance (EHS), as defined under EPCRA section 302, or of a CERCLA hazardous substance in an amount equal to or greater than the reportable quantity for that substance within a 24-hour period.

EPCRA and CERCLA are two separate but interrelated environmental laws that work together to provide emergency release notifications to Federal, state and local officials. Notice given to the NRC under CERCLA serves to inform the Federal government of a release so that Federal personnel can evaluate the need for a response in accordance with the National Oil and Hazardous Substances Contingency Plan (NCP),[1] the Federal government's framework for responding to both oil discharges and hazardous substance releases. Relatedly, notice under EPCRA is given to the State Emergency Response Commission (SERC) for any state likely to be affected by the release and to the community emergency coordinator for the Local Emergency Planning Committee (LEPC) for any area likely to be affected by the release so that state and local authorities have information to help protect the community.

Release reporting under EPCRA depends, in part, on whether reporting is required under CERCLA.[2] Specifically, EPCRA section 304(a) provides for reporting under the following three release scenarios:

- EPCRA section 304(a)(1) requires notification if a release of an EPCRA EHS occurs from a facility at which a hazardous chemical is produced, used or stored, and such release requires a notification under CERCLA section 103(a).
- EPCRA section 304(a)(2) requires notification if a release of an EPCRA EHS occurs from a facility at which a hazardous chemical is produced, used or stored, and such release is not subject to the notification requirements under CERCLA section 103(a), but only if the release:
  - Is not a federally permitted release as defined in CERCLA section 101(10),
  - Is in an amount in excess of the reportable quantity as determined by EPA, and
  - Occurs in a manner that would require notification under CERCLA section 103(a).
- EPCRA section 304(a)(3) requires notification if a release of a substance not designated as an EPCRA EHS occurs from a facility at which a hazardous chemical is produced, used or stored, and such release requires a notification under CERCLA section 103(a).

On March 23, 2018, the President signed into law the Consolidated

[1] 40 CFR part 300.

[2] In this document, emergency release notification and release reporting are used interchangeably.

Appropriations Act, 2018 (''Omnibus Bill''). Title XI of the Omnibus Bill is entitled the ''Fair Agricultural Reporting Method Act'' or the ''FARM Act.'' *See* Fair Agricultural Reporting Method Act, Public Law 115–141, sections 1101–1103 (2018). The FARM Act expressly exempts reporting of air emissions from animal waste (including decomposing animal waste) at a farm from CERCLA section 103. The FARM Act also provides definitions for the terms ''animal waste'' and ''farm.''

The FARM Act amended CERCLA by providing an exemption from reporting air emissions from animal waste at farms. Because these types of releases are exempted under CERCLA, based on the release reporting criteria under EPCRA section 304, these types of releases are also exempt under EPCRA section 304.

Consequently, on November 14, 2018, EPA published a proposed rule to amend the release reporting regulations under EPCRA section 304. The comment period closed on December 14, 2018. EPA received 87,473 comments, of which 87,091 are mass mail campaigns opposing the proposed rule. The remaining were individual letters that either supported or opposed the proposed rule. EPA's response to significant comments are generally addressed below in Section V of this preamble. EPA developed a response to comment document to address all the comments received by the Agency on the proposed rule, which is in the docket EPA–HQ–OLEM–2018–0318 to this final rule. In addition, this rulemaking generally tracks the guidance document EPA had previously issued after enactment of the FARM Act. Thus, EPA formally withdraws the guidance document entitled, ''How does the Fair Agricultural Reporting Method (FARM) Act impact reporting of air emissions from animal waste under CERCLA Section 103 and EPCRA Section 304?'' dated April 27, 2018.

## II. Summary of This Final Rule

This final rule amends the release reporting regulations under EPCRA section 304 by adding the reporting exemption in 40 CFR 355.31 for air emissions from animal waste at farms, as proposed. EPA is also adding definitions of ''animal waste'' and ''farm'' to the definition section of the EPCRA regulations in 40 CFR 355.61 to delineate the scope of this reporting exemption, as proposed. EPA believes this final rule appropriately reflects the relationship between CERCLA and EPCRA release reporting requirements and is consistent with the statutory text, framework and legislative history of EPCRA, as well as the Agency's prior regulatory actions.

## III. Legal Rationale for This Final Rule

This rulemaking maintains consistency between the emergency release notification requirements of EPCRA and CERCLA in accordance with the statutory text, framework and legislative history of EPCRA, and is consistent with the Agency's prior regulatory actions. Specifically, this rulemaking is based on the relationship of the EPCRA section 304 reporting requirements to the CERCLA section 103 reporting requirements, as recently amended. As previously noted, EPCRA section 304 reporting depends, in part, on whether reporting is required under CERCLA section 103. EPCRA's legislative history further indicates that the EPCRA section 304 reporting requirements are designed to be consistent with the reporting requirements of CERCLA section 103. EPA has thus revised the EPCRA emergency release notification regulations from time to time, as appropriate, to maintain consistency with the CERCLA reporting requirements.

Consistent with the Agency's interpretation of EPCRA section 304 and the Agency's prior regulatory actions, EPA is amending the EPCRA release notification regulations to explicitly exempt air emissions from animal waste at farms from reporting under EPCRA section 304.

### *A. Statutory Text and Framework*

EPCRA section 304 provides for release reporting under three scenarios, each of which depends in some way on whether the release requires notice under CERCLA. If a release requires notice under CERCLA section 103(a), the release may be subject to reporting under EPCRA if the release meets the requirements of EPCRA section 304(a)(1) or 304(a)(3). Because the FARM Act exempted air emissions from animal waste at farms from CERCLA reporting, these types of releases no longer require notice under CERCLA section 103(a). If a release is *not* subject to notification under CERCLA section 103(a), the release may nonetheless be subject to reporting under EPCRA if the release meets the requirements of EPCRA section 304(a)(2). Pursuant to EPCRA section 304(a)(2), a release of an EPCRA EHS that is not subject to notification under section 103(a) of CERCLA need only be reported under EPCRA if the release:

- Is not a federally permitted release as defined in section 101(10) of CERCLA,
- Is in an amount in excess of the reportable quantity as determined by EPA, and
- Occurs in a manner that would require notification under section 103(a) of CERCLA.

A release that is not subject to CERCLA section 103(a) reporting must meet all three criteria in EPCRA section 304(a)(2) to be subject to EPCRA reporting. Here, air emissions from animal waste at farms could meet the first two criteria because such releases are generally not federally permitted and may exceed the applicable reportable quantity. Yet these types of releases do not ''occur[ ] in a manner'' that would require notification under CERCLA section 103(a) and thus do not meet the third criterion of EPCRA section 304(a)(2). Because air emissions from animal waste at farms do not meet all three criteria under EPCRA section 304(a)(2), and do not fall within the EPCRA section 304(a)(1) or (a)(3) reporting scenarios, these types of releases are not subject to EPCRA reporting. As such, EPA is amending the EPCRA's emergency release notification regulations to clarify reporting exemptions for certain types of releases under EPCRA section 304.

Air emissions from animal waste at farms no longer ''occur[ ] in a manner'' that would require notification under CERCLA section 103(a) because the FARM Act exempted these types of releases from CERCLA reporting. Importantly, the CERCLA reporting exemption is specifically tied to the nature or manner of these releases rather than to a specific substance. For example, the FARM Act amendment does not exempt specific substances typically associated with animal waste (such as ammonia and hydrogen sulfide) from reporting; rather, it exempts from reporting releases of any substance from animal waste at a farm *into the air.* Because air emissions from animal waste do not ''occur[ ] in a manner'' that would require notification under CERCLA section 103(a), these types of releases do not meet the third criterion of EPCRA section 304(a)(2) and are thus not subject to EPCRA reporting.

EPCRA section 304(a)(2) promotes consistency between the reporting requirements of EPCRA and CERCLA by ensuring that only releases that ''occur[ ] in a manner'' that would require CERCLA notification be reported under EPCRA. Yet, the provision also contemplates scenarios where releases not subject to reporting under CERCLA may still need to be reported under EPCRA, such as releases of substances designated as EHSs under EPCRA but not as hazardous substances under

CERCLA. For example, trimethylchlorosilane (Chemical Abstract Service No. 75–77–4) is designated as an EPCRA EHS but not as a CERCLA hazardous substance. Since trimethylchlorosilane is not a CERCLA hazardous substance, its releases are not subject to notification under CERCLA section 103(a) and need only be reported under EPCRA if such releases meet the criteria of EPCRA section 304(a)(2). A trimethylchlorosilane release that (1) is not a federally permitted release as defined in CERCLA section 101(10); (2) exceeds the applicable reportable quantity; and (3) ''occurs in a manner'' that would require notification under CERCLA section 103(a) would still be subject to EPCRA reporting. In this example, a release of trimethylchlorosilane ''occurs in a manner'' that would require notification under CERCLA section 103(a) where it is not one of the excluded or exempted types of releases described in CERCLA sections 101(22), 103(e), or 103(f). (See section C of this preamble, for further explanation of these exemptions.) The reason the release is not subject to notification under CERCLA section 103(a) is because trimethylchlorosilane is not a CERCLA hazardous substance, not because there is anything particular about the release that renders it exempt.

As another example, petroleum (including crude oil or any fraction thereof) is expressly excluded from the definition of ''hazardous substance'' in CERCLA section 101(14). Because of this ''petroleum exclusion,'' releases of petroleum are not subject to notification under CERCLA section 103(a) and so need to be reported under EPCRA only if such releases meet the criteria of EPCRA section 304(a)(2). Where a petroleum release meets the first two criteria of EPCRA section 304(a)(2), the question becomes whether the release ''occurs in a manner'' that would require notification under CERCLA section 103(a). Notably, unlike air emissions from animal waste at farms, Congress did not exempt petroleum releases from CERCLA reporting based on the manner or nature of these releases. Instead, Congress exempted these types of releases from CERCLA reporting by excluding petroleum (including crude oil or any fraction thereof) from the definition of ''hazardous substance.'' *See* 42 U.S.C. 9601(14). As such, these types of releases still ''occur[ ] in a manner'' that would require notification under CERCLA section 103(a) and could thus be subject to reporting under EPCRA section 304(a)(2) where the petroleum release contains an EHS. *See* 52 FR 13378, 13385 (April 22, 1987). In sum, where a CERCLA reporting exemption or the reason a release is not subject to CERCLA reporting is *unrelated to the manner* in which such releases occur, EPCRA section 304(a)(2) may compel reporting of such releases.

In addition to the statutory text of EPCRA section 304(a)(2), the statutory framework of EPCRA's reporting requirements indicates a desire to maintain consistency between the EPCRA and CERCLA reporting requirements. Indeed, ''[i]n drafting the EPCRA reporting requirements, Congress expressly tied them to CERCLA's'' such that ''all of EPCRA's reporting mandates are piggybacked on the CERCLA mandates in one form or another.'' *Waterkeeper Alliance* v. *EPA,* 853 F.3d 527, 532 (D.C. Cir. 2017). Under EPCRA sections 304(a)(1) and (a)(3), EPCRA reporting depends on whether a release requires notification under CERCLA section 103(a), and under EPCRA section 304(a)(2), EPCRA reporting depends on whether a release ''occurs in a manner'' that would require notification under CERCLA section 103(a). Therefore, EPCRA requires reporting only for releases that require notification under CERCLA or occur in a manner that would require notification under CERCLA. Under CERCLA section 103 as amended, air emissions from animal waste at farms do not require notification under CERCLA section 103(a) and do not occur in a manner that would require such notification. As a result, these types of releases are not subject to reporting under EPCRA section 304(a)(1), (a)(2) or (a)(3). Thus, to clarify that these types of releases are not subject to reporting under EPCRA section 304, EPA is amending the EPCRA release notification regulations to exempt air emissions from animal waste at farms from reporting under section 304. In doing so, EPA seeks to avoid inconsistent regulation of these types of releases under EPCRA and CERCLA, in furtherance of the underlying purpose of this statutory framework.

*B. Legislative History*

EPA's understanding of EPCRA section 304(a)(2) is informed by the legislative history of EPCRA itself. In 1986, Congress passed EPCRA pursuant to Title III of the Superfund Amendments and Reauthorization Act (SARA). In the committee conference report addressing EPCRA, Congress discussed the three scenarios requiring release reporting under EPCRA section 304. With respect to EPCRA section 304(a)(2), the report states: ''This requires notification where there is a release of an extremely hazardous substance that would require notice under section 103(a) of CERCLA but for the fact that the substance is not specifically listed under CERCLA as requiring such notice.'' *See* 99 Cong. Conf. Report H. Rep. 962, October 3, 1986; SARA Leg. Hist. 38 (Section 304 Emergency Notification).

Congress thus expressed its intent that state and local authorities be notified of a qualifying release under EPCRA, even if the substance released is not identified as a hazardous substance under CERCLA, when the release occurs in a manner as the types of releases that require notification under CERCLA section 103(a). Conversely, if the release occurs in a manner that Congress determines does not require notification under CERCLA section 103(a)—such as air emissions from animal waste at farms—then no reporting is required under EPCRA section 304(a)(2) (*i.e.,* the third criterion of EPCRA section 304(a)(2) has not been met).

The legislative history also reveals that Congress intended EPCRA section 304(a)(2) to operate to exclude continuous releases from EPCRA's immediate notification requirements because such releases do not occur in a manner that requires reporting under CERCLA section 103(a).[3] The committee conference report explains: ''[R]eleases which are continuous or frequently recurring and do not require reporting under CERCLA are not required to be reported under [EPCRA section 304].'' Rather, continuous releases are subject to reduced reporting requirements pursuant to CERCLA section 103(f). As explained in section C.3. of this preamble, EPA incorporated an alternative for continuous releases into EPCRA and promulgated regulations that allow continuous releases to be reported in a manner consistent with CERCLA's continuous release reporting requirements.

Congress's intent in adopting the three scenarios in EPCRA section 304(a)(1)–(3) was to ensure that when

[3] CERCLA section 103(a) requires the person in charge of a vessel or facility to ''immediately notify'' the NRC when there is a release of a hazardous substance in an amount equal to or greater than the reportable quantity for that substance within a 24-hour period. In contrast, releases that are continuous and stable in quantity and rate may qualify for reduced, ''continuous release'' reporting under CERCLA section 103(f)(2). Similarly, EPCRA section 304 requires owners or operators of certain facilities to ''immediately'' notify state and local authorities of qualifying releases, and EPA has promulgated regulations that allow continuous releases to be reported under EPCRA in a manner consistent with CERCLA's continuous release reporting requirements.

Federal authorities receive notice of a release under CERCLA section 103(a), state and local authorities receive similar notice under EPCRA. Note that CERCLA notification applies to the list of hazardous substances (located in 40 CFR 302.4), while EPCRA notification applies to the lists of both CERCLA hazardous substances *and* EPCRA EHSs (located in 40 CFR part 355 Apps. A and B). When a substance is not a listed CERCLA hazardous substance (or a federally permitted release and is above the applicable reportable quantity), but is on the EPCRA EHSs list, EPCRA section 304(a)(2) provides for notification only if the release of such substance occurs in a manner as the types of releases that require notification under CERCLA section 103(a). On the other hand, if Congress determines that a release occurs in a manner that does not require notification under CERCLA section 103(a), EPCRA section 304(a)(2) works to logically exclude that release from EPCRA reporting.

*C. Prior Regulatory Actions*

As noted, CERCLA release notification was established to alert Federal authorities to a release so that the need for a response can be evaluated and any necessary response undertaken in a timely fashion. EPCRA release notification supplements CERCLA release notification by similarly preparing the community at the state and local level. Based on the criteria for EPCRA section 304 release reporting, and to promote consistency between CERCLA and EPCRA release notification requirements, the Agency has incorporated many of CERCLA's release notification exemptions into the EPCRA release notification regulations through prior rulemakings. Each of these prior regulatory actions are summarized below.

1. Exemptions From the Definition of ''release'' Under CERCLA and EPCRA

Both CERCLA and EPCRA define the term ''release.'' Under CERCLA section 101(22), the term ''release'' generally means ''any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant),'' but also includes specific exclusions for workplace releases, vehicle emissions, nuclear material releases and fertilizer application. Similar to the CERCLA workplace exposure exclusion, EPCRA section 304(a)(4) exempts from reporting any release which results in exposure to persons solely within the site or sites on which a facility is located. Though the definition of ''release'' under EPCRA section 329 mirrors the CERCLA definition, it does not contain three exclusions provided in the CERCLA section 101(22) definition of ''release'': (1) Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel or pipeline pumping station engine; (2) releases of source, byproduct or special nuclear material from a nuclear incident; and (3) the normal application of fertilizer. However, because the types of releases excluded from CERCLA's definition of ''release'' do not occur in a manner that would be reportable under CERCLA section 103(a), these types of releases do not meet the reporting requirements under EPCRA section 304. *See* 52 FR 13381, 13384–85 (April 22, 1987) and related Response to Comments document, April 1987, Docket Number 300PQ. Thus, EPA adopted these statutory CERCLA exclusions into the EPCRA regulations codified at 40 CFR 355.31.[4]

2. Exemptions From Immediate Notification Requirements

There are four types of statutory exemptions from the immediate notification requirements for releases of hazardous substances provided in CERCLA sections 101(10) and 103(e) and (f). Specifically, these statutory exemptions include: (1) Federally permitted releases, as defined in section 101(10); (2) the application of a pesticide product registered under the Federal Insecticide, Fungicide and Rodenticide Act or from the handling and storage of such a pesticide product by an agricultural producer (section 103(e)); (3) certain releases of hazardous wastes that are required to be reported under the provisions of the Resource Conservation and Recovery Act and that are reported to the NRC (section 103(f)(1)); and (4) certain releases that are determined to be continuous under the provisions of section 103(f)(2).

In the final rulemaking on April 22, 1987 (52 FR 13378) for emergency planning and release notification requirements under EPCRA, the Agency adopted exemptions from CERCLA section 103(a) reporting ''based on the language in EPCRA section 304(a) which requires that releases reportable under that Section occur in a manner which would require notification under section 103(a) of CERCLA.'' 52 FR 13378, 13381 (April 22, 1987).

Although EPA stated in the April 1987 rulemaking that it was incorporating CERCLA reporting exemptions into the EPCRA regulations based on the criteria for EPCRA section 304 release reporting, the Agency inadvertently omitted the exclusion for the ''application of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act or to the handling and storage of such a pesticide product by an agricultural producer'' from the EPCRA section 304 regulations at that time. Thus, in a technical amendment published on May 24, 1989 (54 FR 22543), EPA added a provision to the EPCRA regulations in 40 CFR 355.40(a)(2)(iv) (currently codified at 40 CFR 355.31(c)) providing that releases exempted from CERCLA section 103(a) reporting by CERCLA section 103(e) are also exempt from reporting under EPCRA section 304. In addition, the May 1989 technical amendment clarified the language in paragraph (a)(2)(v) of 40 CFR 355.40 (currently codified at 40 CFR 355.31(d)), explaining that this section exempts from EPCRA section 304 reporting ''any occurrence not meeting the definition of release under section 101(22) of CERCLA,'' as ''[s]uch occurrences are also exempt from reporting under CERCLA section 103(a).'' *See* 54 FR 22543, 22543 (May 24, 1989).

3. Continuous Release Reporting

CERCLA section 103(f) provides relief from the immediate notification requirements of CERCLA section 103(a) for a release of a hazardous substance that is continuous and stable in quantity and rate. Instead, continuous releases are subject to a significantly reduced reporting requirement under regulations promulgated pursuant to CERCLA section 103(f). In adopting the implementing regulations for EPCRA in 40 CFR part 355, EPA relied on EPCRA section 304(a)(2) to likewise exclude continuous releases from the immediate notification requirement of EPCRA section 304, reasoning: ''Because such releases do not 'occur in a manner' which requires immediate release reporting under section 103(a) of CERCLA, they are also not reportable under section 304 of [EPCRA].'' *See* 52 FR 13381, 13384 (April 22, 1987). EPA later promulgated continuous release reporting regulations for EPCRA that cross-reference and follow the CERCLA continuous release reporting regulations, finding that EPCRA release reporting is ''closely tied'' and ''parallel'' to CERCLA release reporting. *See* 55 FR 30169, 30179 (July 24, 1990).

[4] The 1987 rule codified these exemptions at 40 CFR 355.40(a)(2), which was later reorganized into 40 CFR 355.31. *See* 73 FR 65451 (November 3, 2008).

At that time, the Agency also reiterated that ''[t]o the extent that releases are continuous and stable in quantity and rate as defined by CERCLA section 103(f)(2) . . . , they do not *occur in a manner* that requires notification under CERCLA section 103(a)'' and are thus not subject to the EPCRA section 304 immediate notification requirements. *Id.* (emphasis added).

## IV. Scope of the Final Rule

The scope of this rulemaking is limited to air emissions from animal waste (including decomposing animal waste) at a farm. The Agency is adding this reporting exemption to the EPCRA section 304 emergency release notification regulations as implemented in 40 CFR part 355, subpart C, entitled ''Emergency Release Notification.'' The scope of this rulemaking stems from existing requirements under EPCRA section 304(a)(2) and under CERCLA section 103(e), as amended, and is tied to the nature or manner of these releases rather than to a specific substance. In other words, the Agency is not exempting substances typically associated with animal waste (such as ammonia or hydrogen sulfide) from reporting. Rather, this rulemaking codifies EPA's interpretation that air emissions from animal waste at farms are not subject to EPCRA section 304 release reporting by explicitly exempting releases from animal waste *into the air* at farms from reporting. Thus, the Agency is excluding all releases to the air from animal waste at a farm from reporting under EPCRA section 304.

This rulemaking does not apply to releases of substances from animal waste into non-air environmental media, nor to releases into the air from sources other than animal waste or decomposing animal waste at a farm. For example, a release from animal waste into water (*e.g.,* a lagoon breach) or a release from an anhydrous ammonia storage tank into the air might trigger reporting requirements if the release exceeds the applicable reportable quantities.

This exemption is added to those currently listed in the EPCRA regulations codified at 40 CFR 355.31, entitled ''What types of releases are exempt from the emergency release notification requirements of this subpart?''

To delineate the scope of this exemption, EPA is finalizing, as proposed, the definitions of ''animal waste'' and ''farm'' to be consistent with CERCLA section 103(e). See 40 CFR 355.61 for the full text of these definitions.

## V. Response to Comments

EPA received comments from various organizations, including the National Association of SARA Title III Program Officials (NASTTPO), agricultural trade associations, farm bureaus, a university research center and environmental groups. EPA also received individual comment letters. This section provides a summary of major comments received and EPA's responses. A detailed summary of the comments and EPA's responses are in the Response to Comments document, a copy of which is in the docket for this rulemaking.

### *A. General Comments Supporting the Proposed Rule*

Several commenters, NASTTPO, agricultural trade associations, the Department of Agriculture from West Virginia and North Dakota, farm bureaus and a few private citizens, expressed general support for the proposed amendment to the EPCRA section 304 release reporting regulations to add the reporting exemption for air emissions from animal waste at farms provided in CERCLA section 103(e). In support of the proposed amendment, commenters stated that the proposed rule lays out the proper reading of the law and is consistent with Congress' clear intent that EPCRA section 304 and CERCLA release reporting requirements should be applied consistently except in certain very limited circumstances. Some of the commenters stated that EPCRA was never intended to govern agricultural operations, where emissions from livestock are a part of everyday life and are certainly not emergency situations. The natural breakdown of livestock manure does not constitute an emergency release pursuant to the CERCLA and EPCRA laws. One commenter stated that EPCRA was created to protect citizens from disasters such as 1984 Bhopal tragedy, however, animal agriculture cannot be compared to or included in a similar category designed to address toxic chemicals, hazardous substances and chemical emergencies.

### *B. General Comments Opposing the Proposed Rule*

EPA received numerous mass mail campaigns which include anonymous private citizens, citizen & environmental groups opposing the proposed amendment to add the reporting exemption to the EPCRA section 304 emergency release notification regulations for air emissions from animal waste at farms. Several commenters strongly urge the EPA to withdraw the proposed rule, which commenters said would exempt concentrated animal feeding operations (CAFOs) from EPCRA reporting requirements so that reports of hazardous substance releases will be available to the public. Certain members of the Senate Environment and Public Works (SEPW) Committee strongly urged EPA to withdraw the proposed rule and faithfully execute and enforce EPCRA and CERCLA reporting requirements consistent with the laws passed by Congress.

EPA also received individual comment letters opposing the proposed amendment. One commenter stated that it is the job of the EPA to regulate sources of hazardous emissions and protect the population from known sources of these emissions. One commenter asked EPA not to ignore and vacate their right-to-know by exempting the CAFO's responsibility to control and report the toxic emissions they are required to control and report.

*EPA's Response:* While EPA recognizes commenters' concerns regarding animal waste emissions, this amendment is based on the statutory language in EPCRA section 304 and its relationship to CERCLA section 103 release reporting requirements. The basic purpose of emergency release notification requirements under EPCRA section 304 is for facilities to inform state and local agencies of accidental releases so that these agencies can exercise the local emergency response plan if necessary. This may include, but is not limited to, providing shelter or evacuating the community to prevent acute exposure from accidental releases of chemicals. EPCRA section 304 serves as a notification requirement for chemical accidental releases, it is not intended to regulate emissions.

In their letter to EPA dated June 1, 2017, the members of NASTTPO indicated that the release reports for air emissions from animal waste at farms provide little value to local agencies and first responders, and are generally ignored. NASTTPO states that open dialogue and coordination among farms and local agencies can be more effective than release reporting to address animal waste management at farms. NASTTPO reiterated this principle in its comment to this rulemaking, dated December 14, 2018. In addition, regardless of reporting, EPA can still enforce applicable laws and regulations to address threats to human health and the environment. This rulemaking does not limit the Agency's authority under CERCLA sections 104 (response authorities), 106 (abatement actions), 107 (liability), or any other provisions of

CERCLA to address releases of hazardous substances at farms.

*C. Comments on the Proposal To Add Definitions of ''animal waste'' and ''farm''*

EPA requested comments on adding the definitions of ''animal waste'' and ''farm'' to the definition section of EPCRA regulations in 40 CFR part 355.

1. Support

A few commenters supported adding the definitions of ''animal waste'' and ''farm'' to EPCRA regulations in 40 CFR part 355. These commenters expressed that the incorporation of the FARM Act's definitions of ''animal waste'' and ''farm'' into the ECPRA regulations provides important regulatory clarity to agricultural producers. In their comments, NASTTPO expressed that EPA has crafted a narrow and specific exemption from the reporting of releases from animal waste from farms.

2. Oppose

Many commenters as part of mass mail campaigns as well as few individual commenters opposed adding the definitions of ''animal waste'' and ''farm'' to the EPCRA regulations in 40 CFR part 355. One of the commenters specifically stated that limiting definitions of what constitutes a farm, or animal waste merely hides problems and that we should be striving for more transparency on issues concerning emissions that affect climate and public health, not trying to limit transparency. Another commenter stated that it is only the large CAFOs that can release sufficient volumes of toxic pollutants, as ammonia and hydrogen sulfide into the air which obviously will then end up in our soil and water.

*EPA's Response:* On March 23, 2018, the Fair Agricultural Reporting Method (FARM) Act of 2018 amended CERCLA section 103 to exempt the reporting of air emissions from animal waste at a farm. *See* Fair Agricultural Reporting Method Act, Public Law 115–141 §§ 1101–1103 (2018). The FARM Act includes definitions for ''animal waste'' and ''farm.'' On August 1, 2018, EPA promulgated a final rule to incorporate the FARM Act legislation into the CERCLA reporting regulations at 40 CFR part 302 (see 83 FR 37446), including definitions for ''animal waste'' and ''farm.'' This amendment is based on EPA's interpretation of EPCRA section 304(a)(2) and its relationship to CERCLA section 103 as amended by the FARM Act. Thus, the Agency believes it is reasonable to promulgate the same definitions for ''animal waste'' and ''farm'' into the EPCRA release reporting regulations to maintain consistency between the statutes and to effectuate the exemption under EPCRA.

*D. Comments on the Legal Rationale for the Proposed Rule*

EPA received comments supporting and opposing the legal rationale for the proposed rule. Below is a summary of the significant comments received and EPA's responses. Details of these comments and the Agency's responses are addressed in the Response to Comments document which can be found in the docket for this rulemaking.

1. Support

A few commenters state that Congress intended for EPCRA reporting requirements to be consistent with or ''linked to'' CERCLA reporting requirements, which is evinced by the statutory language in EPCRA section 304(a)(2). Commenters stated that EPA has the authority to amend the EPCRA emergency release notification regulations to include the reporting exemption for air emissions from animal waste at farms provided in CERCLA section 103(e). Commenters also note that an analysis prepared by the Congressional Research Service (CRS) at the request of the Senate Committee on Environment and Public Works (EPW) supports EPA's interpretation as presented in the proposed rule. In sum, commenters state the proposed rule is a sound and lawful codification based on the statutory language in EPCRA and CERCLA.

2. Oppose

EPA received comments with a wide range of arguments opposing the Agency's legal rationale for the proposed rule. The following is a brief summary of comments on each topic presented in the preamble to the proposed rule. Details of comments received and the Agency's response can be found in the Response to Comments document at the docket for this rulemaking.

i. Statutory Text

A few commenters argue the proposed rule is in direct contravention of the plain language of EPCRA and CERCLA and is therefore ''fundamentally flawed'' and ''illegal.'' One commenter argues that the phrase ''occurs in a manner'' makes it clear that even if a release is not reported under CERCLA, EPCRA reporting would still be required if the ''factual'' circumstances of the release would otherwise require CERCLA reporting. The commenter also stated that EPA arbitrarily based its interpretation of ''occurs in a manner'' on the method or type of release (*i.e.,* into the air) rather than on the substance emitted. Additionally, this commenter argues that the statute provides no support for such an interpretation. Another commenter expressed that the plain language of EPCRA is unambiguous in that it prohibits EPA from exempting animal feeding operations from EPCRA's reporting requirements; but even if there was some ambiguity in the statute, the proposed rule is arbitrary and capricious because EPA has not provided a reasoned explanation to justify its departure from the statute or supported that explanation with substantive record evidence.

*EPA's Response:* EPA's interpretation is lawful and based on the plain language of EPCRA and CERCLA. EPA reasonably interpreted the operative language in EPCRA section 304(a)(2) as requiring EPCRA reporting when the release ''occurs in a manner'' which would require notification under CERCLA section 103(a). Because air emissions from animal waste at farms do not ''occur in a manner'' that would require notification under CERCLA section 103(a), such releases are not reportable under EPCRA section 304(a)(2).

EPA disagrees with commenters' analysis that reporting of these types of air emissions would still be required under EPCRA so long as they are factually releases under CERCLA. EPA understands these comments to propose that the ''occurs in a manner'' language in EPCRA section 304(a)(2) means that a release only has to satisfy the definition of a ''release'' under CERCLA to be eligible for EPCRA reporting. Such a reading is unnecessary as the definition of a ''release'' in EPCRA already mirrors the definition of a ''release'' in CERCLA. (see the definition of ''release'' under EPCRA section 329(8) and CERCLA section 101(22). While the CERCLA definition may focus more on hazardous substances and the EPCRA definition focusses more on extremely hazardous substances and hazardous or toxic chemicals, both definitions list similar types, ways, or manners of a release.

EPA believes it is not a full and fair reading of EPCRA section 304(a)(2) to say that EPCRA reporting would still be necessary if a release to the environment qualifies as a release to the environment under CERCLA, regardless of whether reporting is legally required under CERCLA. An EPCRA release into the environment already follows the definition of a release into the environment under CERCLA. Applied to the present rulemaking, emissions into

the air from animal waste at farms already qualify as releases into the environment under both statutes (*i.e.,* they are ''emitting'' or ''escaping'' under the statutory definitions). Further analysis of what factually is a release to the environment does not shed light on the Congressional intent of EPCRA section 304(a)(2) and does not follow the plain language of the statute, which requires, in part, that a release occurs in a manner which would require notification under CERCLA section 103(a).

In enacting the FARM Act, the Senate EPW requested an analysis from the Congressional Research Service (CRS) of the potential effects of the FARM Act's amendments to CERCLA and EPCRA release reporting. The CRS issued two memorandums, March 7, 2018 (an overview of CERCLA and EPCRA release reporting, statutory exemptions, the 2008 CERCLA/EPCRA rule and resulting litigation, etc.) and March 13, 2018 (''Supplemental Analysis: Fair Agricultural Reporting Method Act/ FARM Act (S.2421''). CRS agreed with this interpretation in its memorandum dated March 7, 2018, which states:

> [T]he phrase ''occurs in a manner'' generally has been implemented over time to mean the nature of the release in terms of how the substance enters the environment. [CRS March 7, 2018 memorandum page 6].

The next question is whether the release would require notification under CERCLA section 103(a). As discussed earlier, the FARM Act exempted only releases of a certain kind or manner—air emissions from animal waste at farms—from notification under CERCLA section 103(a). Accordingly, these types of releases do not occur in a manner that would require notification under CERCLA section 103(a). Because the third criteria of EPCRA section 304(a)(2) is not met, no reporting under EPCRA is required.

EPA believes its interpretation follows the plain language of the statute and carries out the Congressional intent of EPCRA section 304(a)(2).

ii. Legislative History and Prior Agency Actions

Commenters opposing the proposal argue that the legislative history of the FARM Act makes it clear that Congress intended for EPCRA reporting to continue notwithstanding the FARM Act's CERCLA exemption. The letter from certain Senate EPW members cites to testimony by Senators and witnesses explaining that the FARM Act makes no changes to reporting requirements for releases of extremely hazardous substances under EPCRA. Commenters assert that the proposed rule violates the legislative intent of the FARM Act. One commenter argues that EPCRA's legislative history does not support EPA's prior actions exempting certain releases from EPCRA reporting, such as the CERCLA continuous release provision.

*EPA's Response:* In enacting the FARM Act, Congress amended the CERCLA section 103 reporting requirements; it did not amend the EPCRA section 304 reporting requirements. While the FARM Act legislative history has relevance with respect to the statutory changes to reporting under CERCLA section 103, EPA considered the text of EPCRA section 304 and its legislative history in issuing this rule. As stated throughout the proposed rule, EPA has interpreted EPCRA section 304(a)(2) as carrying over CERCLA reporting exemptions related to the manner or nature of release. In this way, EPCRA section 304(a)(2) promotes consistency between EPCRA and CERCLA reporting. The legislative history of the FARM Act does not address the legislative history of EPCRA, and if Congress wished to ensure that the exemption in the FARM Act did not carry over into EPCRA reporting, it could have expressly enacted such statutory text, but it did not.

The legislative history of the FARM Act is correct to the extent that the amendment does not exempt all releases from animal waste at farms from reporting under EPCRA. Rather, the amendment only exempts certain types of releases, and this rule tracks the FARM Act to provide that a limited type of release, air emissions from animal waste at farms, are not subject to reporting under EPCRA. This rule does not apply to releases of substances from animal waste into non-air environmental media, nor to releases into the air from sources other than animal waste or decomposing animal waste at a farm. For example, a release from animal waste into water (*e.g.,* a lagoon breach) or a release from an anhydrous ammonia storage tank into the air might trigger reporting requirements if the release exceeds the applicable reportable quantities. This is because the releases occur in a manner that require reporting under CERCLA because they are releases into a non-air media or they are not emissions from animal waste.

The proposed rule also explains how, in the 1986 committee conference report addressing EPCRA, Congress expressed its intent that EPCRA release reporting be aligned with CERCLA reporting. As an example, the committee conference report explains how continuous releases which are not subject to immediate reporting requirements under CERCLA should likewise not be subject to EPCRA reporting. As result, EPA promulgated reduced reporting requirements that cross-reference and follow the CERCLA reduced reporting requirements for continuous releases. In this manner, EPA reasonably followed Congressional intent to state that numerous types of releases are not subject to reporting under EPCRA when reporting wasn't required under CERCLA, including vehicle emissions, the normal application of fertilizer, and the application of registered pesticide products (see the **Federal Register** notice for the proposed rule for a more detailed discussion).

The legislative history of the FARM Act's amendment to CERCLA did not nullify the statutory text in EPCRA section 304(a)(2). EPA reasonably interpreted that text and the proposed rule is supported by EPCRA's legislative history.

*E. Other Comments*

EPA also received adverse comments on the rulemaking and its impact on environment and public health. These commenters expressed that the proposed exemption will prevent local emergency responders from accessing information to protect the community. Some commenters assert that the proposed rule is arbitrary and capricious because the Agency failed to consider environmental justice, the National Environmental Policy Act, and the Endangered Species Act prior to issuing the proposed rule.

*EPA's Response:* Although these comments are outside the scope of this rulemaking, the Agency's response to these comments are provided in the Response to Comments document, which can be found in the docket to this rulemaking.

*F. Request for Public Comment Period Extension & Public Hearings*

Three commenters, a university research organization, mass mail campaign and community group, requested EPA to extend the public comment period for the proposed rule. These commenters stated that the proposed rule may have significant consequences on the ability of local governments and their residents to protect their health and wellbeing, none of which seems to have been considered by EPA during the preparation of the proposed rule. Additionally, these commenters expressed that they need an additional 60 days to collect information from studies on health and

environmental impacts of CAFO air emissions on surrounding communities as rulemaking docket does not contain any scientific studies or other documents about toxic emissions from CAFOs and their impact on surrounding communities.

Two groups, mass mail campaigns and community organization, requested public hearings on the proposed rule stating that given the impact that the proposed rule will have on communities across the country, including a disproportionate number of low-income and minority communities, EPA should schedule at least three public hearings in various locations across the country to ensure adequate public participation in the rulemaking process. EPA should hold these hearings in locations near to communities affected by CAFOs, for example, communities in North Carolina, Maryland, Iowa, or Oklahoma, to name a few.

*EPA's Response:* EPA believes that the 30-day comment period was appropriate. The proposed rule is based on a reasonable interpretation of the statutory language in EPCRA section 304(a)(2) and its relationship with CERCLA section 103 as amended by the FARM Act. EPA's rationale is set out in the **Federal Register** notice for the proposed rule and all the supporting documents the Agency relied on are available in the associated docket.

The proposed rule is not based on health or environmental risk, so no such associated studies are necessary. Because the proposed rule is based on a statutory interpretation, the record is not extensive, and therefore EPA did not believe such an extension should be granted. EPA also generally set out its statutory interpretation in the guidance document entitled ''How does the Fair Agricultural Reporting Method (FARM) Act impact reporting of air emissions from animal waste under CERCLA Section 103 and EPCRA Section 304?'' dated April 2018. That guidance document states: ''EPA intends to conduct a rulemaking to address the impact of the FARM Act on the reporting of air emissions from animal waste at farms under EPCRA.'' Accordingly, the commenters were provided a meaningful opportunity to comment and no extensions were necessary to comment on EPA's statutory interpretation. Similarly, no public meetings or hearing were required or deemed necessary to allow for comment on EPA's interpretation.

## VI. Statutory and Executive Orders

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

### *A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket.

### *B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs*

This action is not subject to Executive Order 13771 because this final rule does not result in additional costs.

### *C. Paperwork Reduction Act (PRA)*

This action does not impose any new information collection burden under the PRA. The Agency is codifying a provision exempting farms from reporting air releases from animal waste under EPCRA section 304 release notification regulations.

### *D. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. Consistent with the Agency's interpretation that air emissions from animal waste at farms are not subject to EPCRA section 304 release reporting, this final rule explicitly exempts these types of releases from EPCRA reporting and would not result in additional costs.

### *E. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector. The Agency is amending the EPCRA section 304 release notification regulations to add the reporting exemption for air emissions from animal waste at farms provided in CERCLA section 103(e), as amended.

### *F. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

### *G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action does not have tribal implications as specified in Executive Order 13175. The EPA is amending the EPCRA section 304 release notification regulations to add the reporting exemption for air emissions from animal waste at farms provided in CERCLA section 103(e), as amended. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of *covered regulatory action* in section 2–202 of the Executive Order. This final rule is not based on health or environmental effect, rather, it is intended to maintain consistency between EPCRA section 304 and CERCLA section 103(a) emergency release notification requirements by exempting reporting of air emissions from animal waste at farms.

### *I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use*

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. The EPA is amending the EPCRA section 304 release notification regulations to add the reporting exemption for air emissions from animal waste at farms provided in CERCLA section 103(e), as amended.

### *J. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking does not involve technical standards.

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

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. EPA has no authority under EPCRA to prevent or reduce emissions from certain facilities or their operations. The rule presents a statutory interpretation intended to maintain consistency between EPCRA section 304(a) and CERCLA section 103 release notification requirements and does not have any impact on human health or the environment.

*L. Congressional Review Act (CRA)*

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

**List of Subjects in 40 CFR Part 355**

Environmental protection, Chemicals, Disaster assistance, Hazardous substances, Hazardous waste, Natural resources, Penalties, Reporting and recordkeeping requirements, Superfund.

Dated: June 4, 2019.

**Andrew R. Wheeler,**

*Administrator.*

For the reasons set forth in the preamble, EPA amends 40 CFR part 355 as follows:

## PART 355—EMERGENCY PLANNING AND NOTIFICATION

■ 1. The authority citation for part 355 continues to read as follows:

**Authority:** Sections 302, 303, 304, 325, 327, 328, and 329 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11002, 11003, 11004, 11045, 11047, 11048, and 11049).

■ 2. Amend § 355.31 by adding paragraph (g) to read as follows:

### § 355.31 What types of releases are exempt from the emergency release notification requirements of this subpart?

* * * * *

(g) Air emissions from animal waste (including decomposing animal waste) at a farm.

■ 3. Amend § 355.61 by adding in alphabetical order definitions for ''Animal waste'' and ''Farm'' to read as follows:

### § 355.61 How are key words in this part defined?

*Animal waste* means feces, urine, or other excrement, digestive emission, urea, or similar substances emitted by animals (including any form of livestock, poultry, or fish). This term includes animal waste that is mixed or commingled with bedding, compost, feed, soil, or any other material typically found with such waste.

* * * * *

*Farm* means a site or area (including associated structures) that—

(1) Is used for—

(i) The production of a crop; or

(ii) The raising or selling of animals (including any form of livestock, poultry, or fish); and

(2) Under normal conditions, produces during a farm year any agricultural products with a total value equal to not less than $1,000.

* * * * *

[FR Doc. 2019–12411 Filed 6–12–19; 8:45 am]

BILLING CODE 6560–50–P

# Proposed Rules

Federal Register
Vol. 84, No. 114
Thursday, June 13, 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 HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 16 and 1107

**[Docket No. FDA–2016–N–3818]**

**RIN 0910–AH89**

## Content and Format of Substantial Equivalence Reports; Food and Drug Administration Actions on Substantial Equivalence Reports; Extension of Comment Period

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The Food and Drug Administration (FDA or the Agency) is extending the comment period for the proposed rule that appeared in the **Federal Register** of April 2, 2019. The Agency is taking this action in response to requests for an extension to allow interested parties additional time to submit comments.

**DATES:** FDA is extending the comment period on the proposed rule published April 2, 2019 (84 FR 12740). Submit either electronic or written comments by July 17, 2019.

**ADDRESSES:** You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 17, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time on July 17, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

*Electronic Submissions*

Submit electronic comments in the following way:

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

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

*Written/Paper Submissions*

Submit written/paper submissions as follows:

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

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

*Instructions:* All submissions received must include the Docket No. FDA–2016–N–3818 for ''Content and Format of Substantial Equivalence Reports; Food and Drug Administration Actions on Substantial Equivalence Reports.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Annette Marthaler, Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002, email: *CTPRegulations@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of April 2, 2019, FDA published a proposed rule with a 75-day comment period that would, if finalized, establish requirements for the content and format of reports intended to establish the substantial equivalence of a tobacco product. The proposed rule, if finalized, would also establish the general procedures that FDA intends to follow when evaluating substantial equivalence reports.

The Agency has received requests for an extension of the comment period for the proposed rule. The requests conveyed concern that the current 75-day comment period does not allow sufficient time to develop a meaningful or thoughtful response to the proposed rule.

FDA has considered the requests and is extending the comment period for the proposed rule for 30 days, until July 17, 2019. FDA believes a 30-day extension is appropriate and would help ensure that interested persons have time to fully consider the proposed provisions, which are detailed and interrelated, as well as to fully consider and develop responses to the Agency's specific requests for comment.

Dated: June 7, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019–12478 Filed 6–12–19; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### 36 CFR Part 220

**RIN 0596–AD31**

## National Environmental Policy Act (NEPA) Compliance

**AGENCY:** Forest Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Department of Agriculture, Forest Service (Agency) is proposing revisions to its National Environmental Policy Act (NEPA) regulations. The Agency proposes these revisions to increase efficiency in its environmental analysis while meeting NEPA's requirements and fully honoring its environmental stewardship responsibilities. The proposed rule would contribute to increasing the pace and scale of work accomplished on the ground and would help the Agency achieve its mission to sustain the health, diversity, and productivity of the nation's forests and grasslands to meet the needs of present and future generations. Public input has informed the development of the proposed rule, including through an Advance Notice of Proposed Rulemaking. The Agency is now requesting public comment on the revisions in the proposed rule. The Agency will carefully consider all public comments in preparing the final rule.

**DATES:** Comments must be received in writing by August 12, 2019.

**ADDRESSES:** Please submit comments via one of the following methods:

1. *Public participation portal (preferred): https://www.regulations.gov/.*
2. *Mail:* NEPA Services Group, c/o Amy Barker; USDA Forest Service, 125 South State Street, Suite 1705, Salt Lake City, UT 84138.
3. *Email: nepa-procedures-revision@fs.fed.us.*

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received online via the public reading room at *https://www.regulations.gov/,* or at U.S. Forest Service, Ecosystem Management Coordination, 201 14th St. SW, 2 Central, Washington, DC 20024. Visitors are encouraged to call ahead to 202–205–1475 to facilitate entry to the building.

**FOR FURTHER INFORMATION CONTACT:** Christine Dawe; Director, Ecosystem Management Coordination; 406–370–8865. 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 Standard Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:**

### Background

The Forest Service is proposing revisions to its NEPA procedures (36 CFR part 220, which are located at *https://www.fs.fed.us/emc/nepa/nepa_procedures/index.htm*) with the goal of increasing efficiency of environmental analysis while meeting NEPA's requirements. The Forest Service is not fully meeting agency expectations, nor the expectations of the public, partners, and stakeholders, to improve the health and resilience of forests and grasslands, create jobs, and provide economic and recreational benefits. The Agency spends considerable financial and personnel resources on NEPA analyses and documentation. The Agency is proposing these revisions to make more efficient use of those resources. The Agency will continue to hold true to its commitment to deliver to decision makers scientifically based, high-quality analysis that honors its environmental stewardship responsibilities while maintaining robust public participation. These values are at the core of the Forest Service mission and are compatible with gaining efficiency in NEPA analysis and documentation.

Reforming the Forest Service's NEPA procedures is needed at this time for a variety of reasons. An increasing percentage of the Agency's resources have been spent each year to provide for wildfire suppression, resulting in fewer resources available for other management activities, such as restoration. In 1995, wildland fire management funding made up 16 percent of the Forest Service's annual spending, compared to 57 percent in 2018. Along with a shift in funding, there has also been a corresponding shift in staff from non-fire to fire programs, with a 39 percent reduction in all non-fire personnel since 1995.

The Consolidated Appropriations Act of 2018 (2018 Omnibus Bill) included a new budget authority for FY 2020 to FY 2027, which will provide federal agencies with a new budget authority of over $20 billion for fighting wildfires, in addition to regular appropriations. While this budget stability is welcome, the trends discussed above make it imperative that the Agency makes the most efficient use of available funding and resources to fulfill its environmental analysis and decision making responsibilities.

Additionally, the Agency has a backlog of more than 5,000 applications for new special use permits and renewals of existing special use permits that are awaiting environmental analysis and decision. On average, the Forest Service annually receives 3,000 applications for new special use permits. Over 80 million acres of National Forest System (NFS) land are in need of restoration to reduce the risk of wildfire, insect epidemics, and forest diseases.

Increasing the efficiency of environmental analysis would enable the Agency to do more to increase the health and productivity of our national forests and grasslands and be more responsive to requests for goods and services. The Agency's goal is to complete project decision making in a timelier manner, improve or eliminate inefficient processes and steps, and, where appropriate, increase the scale of analysis and the number of activities in a single analysis and decision. Improving the efficiency of environmental analysis and decision making will help the agency ensure that lands and watersheds are sustainable, healthy, and productive; mitigate wildfire risk; and contribute to the economic health of rural communities through use and access opportunities.

Council on Environmental Quality (CEQ) regulations at 40 CFR 1507.3 require Federal agencies to adopt procedures, as necessary, to supplement CEQ's regulations for implementing NEPA (40 CFR parts 1500–1508), and to

consult with CEQ during their development and prior to publication in the **Federal Register**. CEQ encourages agencies to periodically review their NEPA procedures. The Agency developed the proposed rule in consultation with CEQ.

The Forest Service's NEPA regulations were promulgated in 2008, when the Agency codified its NEPA procedures in the Code of Federal Regulations (CFR), at 36 CFR 220. However, the Agency's NEPA regulations, in large part, still reflect the policies and practices established by the Agency's 1992 NEPA Manual and Handbook. When the Agency promulgated its NEPA regulations in 2008, it stated, ''the additions to the Forest Service NEPA procedures in this rule are intended to provide an environmental analysis process that better fits with modern thinking on decisionmaking, collaboration, and adaptive management by describing a process for incremental alternative development and development of adaptive management alternatives'' (73 FR 43084). The proposed rule would further modernize the Agency's NEPA policy by incorporating lessons learned and experience gained over the past 10 years.

**Advance Notice of Proposed Rulemaking (ANPR)**

The Agency published an ANPR on January 3, 2018 (83 FR 302). The Agency received 34,674 comments in response to the ANPR, of which 1,229 were unique. Most of the unique comments expressed support for the Agency's effort to identify efficiencies in the NEPA process. The unique comments in support of the ANPR all generally acknowledged that there is room for increased efficiency in the Agency's NEPA process. Some of these comments expressed unqualified support for increasing efficiency; other comments supported the Agency's goals, but included caveats that these gains should not come at a cost to public involvement or conservation of natural resources.

There were three form letter campaigns in response to the ANPR. Approximately 33,000 form letter comments came from two form letter campaigns, which urged the Forest Service to reject any proposal to weaken the Agency's NEPA process. The Forest Service received about 600 comments from a third form letter campaign in favor of the Agency's efficiency goals as stated in the ANPR. The Agency will not regard form letters as ''votes'' as to whether the proposed rule should go forward. The Agency will continue to take public input into account as it revises its NEPA regulations. The Agency believes it is possible to make its NEPA regulations more efficient while remaining true to NEPA's intent of informed decision making, and without weakening the Agency's NEPA process.

Many of the comments received are beyond the scope of the Agency's NEPA regulations, but pertain to other issues relevant to the Agency's environmental analysis and decision making, such as ensuring sufficient funding is available, hiring and training Agency personnel, the objections processes under 36 CFR 218, and the land management planning processes under 36 CFR 219. An executive summary of comments received in response to the ANPR is available at: *https://www.fs.fed.us/emc/nepa/revisions/index.htm.* Public comments received in response to the ANPR are available at: *https://cara.ecosystem-management.org/Public/ReadingRoom?project=ORMS-1797.*

**Section-by-Section Description of Changes in the Proposed Rule**

The order of the sections of the proposed rule has been rearranged to align with the levels of NEPA documentation. The proposed rule would not change the order or headings of 36 CFR 220.1, 220.2, 220.3, or 220.4. The proposed rule would revise the order and headings of 36 CFR 220.5, 220.6, and 220.7 to read as follows:

Section 220.5 Categorical Exclusions
Section 220.6 Environmental Assessment and Decision Notice
Section 220.7 Environmental Impact Statement and Record of Decision

The proposed rule sequentially addresses general guidance, Categorical Exclusions (CE), Environmental Assessments (EA), and Environmental Impacts Statement (EIS). This is a more logical order than previous versions.

*Section 220.3 Definitions*

The proposed rule would add a definition to this section for condition-based management. Condition-based management is defined as a system of management practices based on implementation of specific design elements from a broader proposed action, where the design elements vary according to a range of on-the-ground conditions in order to meet intended outcomes. Condition-based management is not a new management approach for the Forest Service, but the Agency proposes to codify it based on existing practice to provide clear, consistent direction on its use, and to encourage more widespread use. Agency experience has shown that condition-based management can be useful for landscape-scale projects and analysis. As with adaptive management, not all proposed actions lend themselves to condition-based management, and the proposed rule is not intended to require its use for any particular type of proposed action.

*Section 220.4 General Requirements*

Paragraph (c) states the responsible official's obligation to coordinate and integrate the NEPA review with agency decision making, and lists requirements for meeting that obligation. The proposed rule would add ''Leading the proposal development and environmental analysis process, to ensure a focused approach'' as the first item in the list and renumbers the existing items that follow. This addition emphasizes the importance of the responsible official's active, engaged, and focused involvement in the NEPA process.

The proposed rule would combine and revise paragraphs (d) and (e), resulting in a new paragraph (d), Scoping and Public Notice. These revisions reflect the Agency's proposed approach to scoping and public engagement. Paragraph (d) would maintain the Agency's requirement to provide public notice, through the Schedule of Proposed Actions, of all proposed actions that will be documented with a decision memo, EA, or EIS. The Agency will continue to require scoping for EISs in accordance with CEQ regulations at 40 CFR 1501.7. Outside of the minimum requirements listed at (d)(1) and (2) of this section, additional public engagement is at the discretion of the local responsible official, except where specified by applicable statutes and regulations. For example, the current 36 CFR 218 regulations require public comment for EAs that are subject to the Project-Level Predecisional Administrative Review Process.

As a result of the revision of paragraphs (d) and (e) into one paragraph (d), paragraphs (f) through (i) would be re-designated as (e) through (h), respectively.

The proposed rule outlines an approach for ''right-sizing'' the public engagement and scoping processes to each proposed action. The proposed rule language aligns with additional guidance being added to the draft directives, specifically in the Forest Service Handbook. This guidance encourages early and ongoing engagement with the public and other external partners (such as other Federal agencies, Tribes, States, and local

governments) that is not limited to a single NEPA process.

The proposed rule would add a new paragraph (i), Determination of NEPA Adequacy. This paragraph outlines a process for determining whether a completed Forest Service NEPA analysis can satisfy NEPA's requirements for a subsequent proposed action. The process requires the consideration of the following factors: The similarity between the prior decision and the proposed actions, the adequacy of the range of alternatives for the proposed action, any significant new circumstances or information since the prior decision, and the adequacy of the impact analysis for the proposed action. The Determination of NEPA Adequacy is modelled after the Department of Interior, Bureau of Land Management's use of that procedure. Other Federal agencies also provide for comparable approaches in their NEPA procedures. Adding the Determination of NEPA Adequacy to Forest Service NEPA procedures would provide the Agency an opportunity to be more efficient by reducing redundant analyses of substantially similar proposed actions with substantially similar impacts, and is consistent with CEQ policy to reduce paperwork and avoid redundancy.

The proposed rule would move the provisions on adaptive management from current §§ 220.5(e) and 220.7(b)(iv) to § 220.4(j). This change would add adaptive management to the general requirements section of the regulation; the current regulation discusses adaptive management separately under the sections on EAs and EISs.

The proposed rule would also add a new paragraph (k) for condition-based management, specifying that the proposed action and one or more alternatives may include condition-based management.

The proposed rule would also add a new paragraph (l) on supplementation and new information, specifying when supplements are required.

*Section 220.5 Environmental Impact Statement and Record of Decision*

The proposed rule would revise the heading of § 220.5 to read as follows: *Section 220.5 Categorical Exclusions.* The proposed rule would revise all of the paragraphs of § 220.5 by replacing all of the text with new text based on current § 220.6, paragraphs (a) through (f). Additionally, revisions are proposed within these paragraphs (a) through (f) to provide clarity, revise the list of extraordinary circumstances, and propose changes and additions to categorical exclusions in paragraphs (d) and (e).

*Clarifications Regarding Categorical Exclusions (CE)*

The proposed rule would clarify in paragraph (a) that a proposed action may be categorically excluded if it is within one or more of the categories listed in 7 CFR part 1b.3, 36 CFR 220.5(d), or 36 CFR 220.5(e). Categorical exclusions are categories of actions that normally will not result in individual or cumulative significant impacts on the quality of the human environment and, therefore, do not require analysis or documentation in either an EA or EIS (40 CFR 1508.4). Where a proposed action consists of multiple activities, and all of the activities that comprise the proposed action fall within one or more CEs, the responsible official may rely on multiple categories for a single proposed action. This approach shall not be used to avoid any express constraints or limiting factors that apply to a particular CE. This clarification to paragraph (a) is consistent with CEQ's definition of CEs as categories of actions that do not individually or cumulatively have a significant effect on the environment.

Paragraph (a) further explains that CEs are independently established and constraints or limitations in a particular categorical exclusion do not constrain or limit the operation of other categorical exclusions. For example, an express spatial or temporal limitation in one CE should not be construed to apply to another similar CE that is otherwise silent on spatial or temporal limits.

The proposed rule would adjust and refine instructions for evaluating extraordinary circumstances. The proposed rule would revise the list of resource conditions to be considered in determining whether extraordinary circumstances warrant analysis and documentation in an EA or EIS. The proposed rule would remove ''sensitive species'' from item (i). The Agency's 2012 planning regulations marked a transition away from the term ''sensitive species,'' and retention of the term in the NEPA procedures is unnecessary. All land management plans have direction to provide for the diversity of plant and animal communities and support the persistence of native species in the plan area. All Forest Service projects must comply with relevant land management plans; therefore, it is not necessary to include sensitive species in the list of resource conditions.

The proposed rule also would add wild and scenic rivers to the list of Congressionally designated areas in § 220.5(b)(1)(iii), and move potential wilderness areas from (b)(1)(iv) to (b)(1)(iii) to add it to the list of Congressionally designated areas. The proposed rule would revise § 220.5(b)(1)(iv) to include roadless areas designated under 36 CFR part 294, including Idaho and Colorado Roadless Areas.

In § 220.5(b)(2), the proposed rule would clarify the degree of effects threshold for determining whether extraordinary circumstances exist. The proposed rule explains that extraordinary circumstances exist when there is a cause-and-effect relationship between the proposed action and listed resource conditions, and the responsible official determines that there is a likelihood of substantial adverse effects to the listed resource conditions. Additionally, the proposed rule explains that when evaluating extraordinary circumstances, the responsible official may also consider whether the long-term beneficial effects outweigh short-term adverse effects.

The proposed rule would revise § 220.5(c) to clarify that in addition to the § 220.4(d) requirements for public notice in the Schedule of Proposed Actions, the responsible official may choose to conduct additional public engagement activities to involve key stakeholders and interested parties. Additional public engagement would be conducted commensurate with the nature of the decision being made.

*Changes to Existing CEs and Proposed New CEs*

The proposed rule would add several new CEs. The Forest Service developed these CEs pursuant to CEQ's regulations at 40 CFR 1507.3 and the November 23, 2010, CEQ guidance memorandum on ''Establishing, Applying, and Revising Categorical Exclusions under the National Environmental Policy Act''(*https://ceq.doe.gov/docs/ceq-regulations-and-guidance/NEPA_CE_Guidance_Nov232010.pdf*).

The Forest Service is uniquely situated when compared to other Federal agencies in terms of using CEs to satisfy NEPA's procedural requirements. The Forest Service manages the National Forest System to sustain multiple uses of its renewable resources in perpetuity while maintaining the long-term health and productivity of the land. To achieve this goal, each unit of the National Forest System is managed according to a land management plan. A land management plan is a programmatic document supported by an EIS and Record of Decision. A land management plan guides the sustainable, integrated resource management of the resources within the plan area in the context of the broader landscape. Land

management plans ''must provide for social, economic, and ecological sustainability within Forest Service authority and consistent with the inherent capability of the plan area'' (36 CFR 219.8).[1] Ecological sustainability refers to the capability of ecosystems to maintain ecological integrity (36 CFR 219.19).

Each Forest Service proposed action, including those authorized with a CE, must be consistent with the applicable land management plan (16 U.S.C. 1604(i)). Forest Service proposed actions, including those authorized with a CE, are developed using an interdisciplinary approach to identify design features to limit adverse environmental effects; ensure consistency with land management plans; and take into account applicable plan goals, objectives, and desired conditions, and other applicable laws, regulations, and policies.

Categorical exclusions do not apply where there are extraordinary circumstances in which a normally excluded action may have a significant environmental effect (40 CFR 1508.4). Nor do these administratively established CEs represent a final determination of the level of NEPA review to be undertaken, as the responsible official still retains discretion to prepare an EA or EIS. Activities conducted under these CEs must be consistent with Agency procedures and applicable land management plans, and must comply with all applicable Federal and State laws for protecting the environment. The proposed CEs were developed considering other applicable Agency procedures and policies, and specific limitations were imposed on some of the categories based on these considerations. The Agency believes it is appropriate to establish these CEs as a means to reduce paperwork and delays, consistent with CEQ regulations for implementing NEPA at 40 CFR 1500.4(p) and 1500.5(k).

In accordance with CEQ's 2010 guidance memorandum, the Forest Service reviewed and analyzed past actions, including their supporting NEPA documentation, to develop initial outlines of potential new CEs. The Agency convened discussions on the proposed CEs with Agency leaders and subject matter experts to further refine the proposals. The Agency also conducted follow up engagement with Forest Service personnel familiar with the previously implemented actions, on units where those actions were located, to determine whether the effects of projects as implemented were consistent with predictions in the NEPA analysis. The Forest Service also reviewed and analyzed the comparable CEs of other federal agencies for benchmarking the proposals. The Agency's proposal is based on data from implementing comparable past actions; the expert judgment of the responsible officials who made the findings for projects reviewed for this supporting statement; information from other professional staff, experts, and scientific analyses; and a review and comparison of similar CEs implemented by other Federal agencies. Based on its review of all the information provided, the Forest Service believes that actions covered by the proposed CEs would not individually or cumulatively have significant effects on the human environment, as defined at 40 CFR 1508.27.

The Forest Service has prepared supporting statements for each of its proposed new CEs. These supporting statements summarize the administrative record and rationale for the new CEs. The supporting statements support the Forest Service's initial determination that each CE does not individually or cumulatively have significant impacts. The supporting statements provide the background and context for why these proposals were developed and how they fit in with Agency and Departmental priorities; explain existing policy related to the activities covered by the proposed CE; and document the process by which the Forest Service developed the proposals. The supporting statements are available online at *https://www.fs.fed.us/emc/nepa/revisions/index.htm.* For additional information on any of the proposed CEs described below, please see the associated supporting statements, which include a larger discussion of the rationale for the proposed CEs. The justification for proposed CEs (d)(11), (d)(12), and (e)(3), is included in the supporting statement for Certain Special Uses Projects and its associated appendices. The justification for proposed CEs (e)(20–25) is included in the supporting statement for Certain Infrastructure Projects and its associated appendices.

The justification for proposed CE (e)(26) is included in the supporting statement for Certain Restoration Projects and its associated appendices.

*Section 220.5(d) Categories of Actions for Which a Project or Case File and Decision Memo Are not Required*

The proposed rule would consolidate the existing CE at (e)(15), which requires a decision memo, with the existing CE at (d)(10), which does not require a decision memo, as a new CE at (d)(11). CEs (e)(15) and (d)(10) would be removed. The existing CEs both cover clerical modification or reauthorization of existing special uses. Both of these CEs apply only when modification or reauthorization of an existing special use does not involve changes in the authorized facilities or increase the scope or intensity of authorized activities. Both of these CEs are also used only when the permit holder is in full compliance with the terms and conditions of the special use authorization. These criteria would also apply to the new CE at (d)(11). Due to their similarities, there is often confusion over which CE to use. Consolidation of the existing CEs would increase efficiency and reduce confusion over which category to apply when issuing special use authorizations to replace an existing or expired special use authorization, when such issuance is a purely clerical action to account for administrative changes. Establishment and use of this consolidated CE would also help to reduce the backlogs for processing renewals of existing authorizations.

Proposed new CE (d)(12) would cover the issuance of a new authorization or amendment of an existing authorization for activities that occur on existing roads or trails, in existing facilities, or in areas where activities are consistent with the applicable land management plan or other documented decision. In the Agency's experience, the potential for special uses to have significant effects on the human environment is generally avoided when special uses occur on existing NFS roads or NFS trails, in existing facilities, or in areas where activities are consistent with the applicable land management plan or other documented decision. New CE (d)(12) would create more efficiencies in the processing of both new authorizations and renewals of existing authorizations.

*Section 220.5(e) Categories of Actions for Which a Project or Case File and Decision Memo Are Required*

The proposed rule would expand existing CE (e)(3) to cover the approval, modification, or continuation of special uses of NFS lands that require less than 20 acres of land. The current version of CE (e)(3) is limited to minor special uses

[1] Similarly, National Forests managed under land management plans developed pursuant to the 1982 planning regulations ''shall provide for multiple use and sustained yield of goods and services from the National Forest System in a way that maximizes long term net public benefits in an environmentally sound manner'' (36 CFR 219.1(a) (1982)).

that require less than five contiguous acres of land. The proposed rule would also remove the term ''minor.'' The presence of ''minor'' in CE (e)(3) has caused confusion among Agency personnel because it is not a term of art in this context. The Agency has substantial experience authorizing special uses. A review of EAs and associated FONSIs relevant to this proposed CE found that approval, modification, or continuation of special uses that require less than 20 acres of NFS lands does not have the potential to have significant effects on the environment. The level of effects associated with the proposed actions in the CE are expected to be below the threshold for significant environmental effects.

The proposed rule would expand the scope of CE (e)(20) to include lands occupied by National Forest System roads and trails. The current version of this CE, which was established in 2013, is limited to lands occupied by unauthorized roads and trails. CE (e)(20) would allow activities that restore, rehabilitate, or stabilize lands occupied by roads and trails to a more natural condition. The proposal to expand CE 20 to include NFS roads and trails was made based on a review of implementation of existing CE (e)(20), a review of the record and supporting statement from when CE (e)(20) was established (which has been incorporated in the record), subject matter expertise, and a review of other road and trail management projects that included decommissioning activities for NFS roads and NFS trails. A review of EAs and associated FONSIs for the projects that included the proposed activities found that none of them predicted significant effects on the human environment. Regardless of whether the activity undertaken is the restoration of lands occupied by an NFS road or NFS trail or unauthorized road or trail, the actions and environmental impacts are generally the same.

Proposed new CE (e)(21) would cover the construction, reconstruction, decommissioning, relocation, or disposal of buildings, infrastructure, or other improvements at an existing administrative site, as that term is defined in section 502(1) of Public Law 109–54 (119 Stat. 559; 16 U.S.C. 580d note). Use of this CE would be limited to existing administrative sites, and used alongside other established Agency processes, such as those processes used for facility master planning and identifying the appropriate level of analysis for a specific project. Many Forest Service administrative facilities are in need of reconstruction or major repair or could be decommissioned or disposed of, reducing the Agency's footprint. Accumulating deferred maintenance can result in deterioration of performance, increased repair costs, a decrease in asset value, along with health and safety concerns. The activities proposed in CE (e)(21) would help the Agency more efficiently address these issues. The proposed CE was developed with input from subject matter experts. A review of projects and their associated EAs and FONSIs found that no significant effects were predicted on the human environment. Based on a review of past actions, a review of CEs implemented by other agencies, and the Forest Service's extensive experience implementing projects that allow for the use and management of administrative sites, the Forest Service has concluded that this proposed category of actions does not have individual or cumulative significant effects and, therefore, should be categorically excluded from documentation in an EA or EIS.

Proposed new CE (e)(22) would cover the construction, reconstruction, decommissioning, or disposal of buildings, infrastructure, or improvements at an existing recreation site. This would include infrastructure or improvements that are adjacent or connected to an existing site and provide access or utilities for that site. Recreation sites include, but are not limited to, campgrounds and camping areas, picnic areas, day use areas, fishing sites, interpretive sites, visitor centers, trailheads, ski areas, and observation sites. This CE would apply to both existing recreation sites managed by the Forest Service and sites managed under special use authorities. Use of this CE would be limited to existing recreation sites and used alongside other established Agency processes, such as those processes used for facility master planning and for screening special use permit applications (36 CFR 251).

Proposed new CE (e)(23) would cover the conversion of an unauthorized or non-NFS trail or trail segments to an NFS trail, when determined appropriate by the responsible official and consistent with applicable land management plan direction, travel management decisions, trail-specific direction, and other related direction. When considering conversion of an unauthorized trail to an NFS trail, the responsible official should also consider whether the converted route would meet Trail Management Objectives and provide the desired recreation experience, and the route's long-term maintenance needs.

Similar to the Agency's administrative sites, recreation sites and facilities are also in need of major repair or decommissioning. Additionally, unauthorized trails that have been created over time by users do not meet technical or environmental protection standards. Proposed CEs (e)(22) and (23) would help the Forest Service more efficiently address recreation management needs in order to reduce environmental and public safety concerns. A suite of recreation management and trails management projects completed using an EA and their associated FONSIs were reviewed during development of these proposed CEs, along with input from subject matter experts and review of other Agency CEs. Based on this review, consideration of projects being developed in compliance with other policies and practices mentioned above, and subject matter expertise, the Agency does not expect that the proposed actions undertaken in proposed CEs (e)(22) and (23) would individually or cumulatively have significant environmental effects. Proposed new CE (e)(24) would cover the construction or realignment of up to 5 miles of NFS roads, reconstruction of up to 10 miles of NFS roads and associated parking areas, opening or closing an NFS road, and culvert or bridge rehabilitation or replacement along NFS roads. The mileage limitations included in this proposed CE were established from a review of previously implemented actions, discussions and coordination with Agency transportation program managers, and a review of existing CEs related to roads management in use by other Federal agencies.

Proposed new CE (e)(25) would cover the conversion of an unauthorized or non-National Forest System (non-NFS) road to an NFS road. When determining whether to convert a non-NFS road to an NFS road, the responsible official would also consider outcomes related to the local unit's travel analysis process, travel management decisions, and overall goals and objectives of the transportation program.

Proposed CEs (e)(24) and (25) were developed with a focus on increasing efficiency and management of National Forest System roads. The Forest Service infrastructure includes over 370,000 miles of roads and 13,000 road and trail bridges. Recreational use and need for access to NFS lands on NFS roads continues to increase; these roads are also used for resource protection. Deterioration of roads over time increases risk of erosion, landslides, and slope failure, which creates environmental and safety concerns.

These proposed CEs would help the Forest Service more efficiently address some of these growing concerns. Based upon a review of previously implemented projects and subject matter expertise and building on the Agency's extensive background in managing NFS roads and associated infrastructure, such as bridges, the Forest Service anticipates that the level of effects associated with proposed actions covered by the proposed CEs to be below the threshold for significant environmental effects.

Proposed new CE (e)(26) would cover ecosystem restoration or resilience activities, in compliance with the applicable land management plan, taking into account plan goals, objectives, or desired conditions. Activities to improve ecosystem health, resilience, or other watershed conditions cannot exceed 7,300 acres. When commercial or non-commercial timber harvest activities are proposed (§ 220.5(a)(26)(i)(H) and (i)(I)), they must be carried out in combination with at least one additional restoration activity to qualify for the CE, and harvested acres cannot exceed 4,200 of the 7,300 acres. The Forest Service defines restoration as ''the process of assisting the recovery of an ecosystem that has been degraded, damaged, or destroyed. Ecological restoration focuses on reestablishing the composition, structure, pattern, and ecological processes necessary to facilitate terrestrial and aquatic ecosystems sustainability, resilience, and health under current and future conditions'' (36 CFR 219.19 and FSM 2020).

The Forest Service reviewed recently implemented actions to develop this proposed CE by randomly selecting a sample of 68 projects from over 718 projects completed under an EA from fiscal years 2012 to 2016. The average of commercial and non-commercial harvest activities from the 68 sampled EAs was 4,237 acres, and the average of total project activities was 7,369 acres. Further information on these projects is available in the supporting statement for Certain Restoration Projects and its associated appendices.

Proposed CE (e)(26) was developed with the intent to allow the Agency to more efficiently implement projects that include restoration activities to improve forest health and resiliency to disturbances and to improve terrestrial and aquatic habitat and other watershed conditions. The Agency has implemented forest and watershed restoration projects for decades. Through this experience, the Agency has found that in certain circumstances the environmental effects of some restoration activities have not been individually or cumulative significant. Based on this experience, professional expertise, and analysis of EAs and associated FONSIs for previously implemented projects, the Agency does not expect that the restoration activities proposed in this CE would result in potentially significant effects.

Proposed new CE (e)(27) would cover a Forest Service action that will be implemented jointly with another Federal agency where the action qualifies for a CE of the other Federal agency. If the Forest Service chooses to use another Federal agency's CE to cover a proposed action, the responsible official must obtain written confirmation from the other Federal agency that the CE applies to the proposed action. Proposed actions covered by this CE would remain subject to applicable land management plan direction and other applicable laws, regulations, and policies.

*36 CFR Section 220.6 Categorical Exclusions*

The proposed rule would revise the heading of § 220.6 to read as follows: *Section 220.6 Environmental Assessment and Decision Notice.* The proposed rule would revise all of the paragraphs of section 220.6 by replacing all of the text with new text based on current § 220.7, paragraphs (a) through (d). Additionally, revisions are proposed within these paragraphs, including adding a paragraph on public involvement.

The proposed rule would revise paragraph (a) to state that an EA, which is prepared to determine whether to prepare either a FONSI or EIS, may be prepared in any format. This revision emphasizes the primary purpose of preparing an EA according to CEQ's regulations at 40 CFR 1508.9. The proposed rule would add new paragraph (c) and relabel the subsequent items in § 220.6. Paragraph (c) would clarify that in addition to the public notice requirements listed at § 220.4(d), and any requirements specified by applicable statutes or regulations (such as 36 CFR part 218), the responsible official may choose to conduct additional public engagement opportunities to involve key stakeholders and interested parties. Additional involvement would be conducted commensurate with the nature of the decision being made.

*Section 220.7 Environmental Assessment and Decision Notice*

The proposed rule would revise the heading of § 220.7 to read as follows: *Section 220.7 Environmental Impact Statement and Record of Decision.* The proposed rule would revise all of the paragraphs of § 220.7 by replacing all of the text with new text based on current § 220.5, paragraphs (a) through (g). Additionally, revisions are proposed within these paragraphs (a) through (g), including adding a paragraph on public notice and scoping.

The proposed rule, in paragraph (a) of this section, would revise the list of classes of actions normally requiring an EIS. The proposed rule would add development of a new land management plan or land management plan revision in accordance with 36 CFR 219.7. The proposed rule also would add mining operations that authorize surface disturbance on greater than 640 acres over the life of the proposed action. The proposed rule would remove classes of actions that would substantially alter the undeveloped character of an inventoried roadless area or a potential wilderness area. The Agency proposes this change in part because the activities that have the greatest potential to affect the roadless character of these lands are addressed separately by the Roadless Area Conservation Rule and state-specific roadless rules at 36 CFR part 294. Potential wilderness areas are a class of Congressionally designated lands where management must conform with the establishing statute's requirements, and therefore presumptive preparation of an EIS is not required. The responsible official would continue to prepare an EIS for proposed actions where impacts may be significant.

Proposed new paragraph (b) would require scoping for an EIS to be carried out in accordance with CEQ requirements at 40 CFR 1501.7. Paragraph (b) also clarifies that no single scoping technique is required or prescribed; however, while public notice shall be provided in the Schedule of Proposed Actions as required at § 220.4(d), the Schedule of Proposed Actions shall not be the sole scoping mechanism. Current paragraphs (b) through (g) would be re-designated as (c) through (h), respectively.

The proposed rule would revise current paragraph (e) relating to EIS alternatives and re-designate it as paragraph (f). The proposed rule would clarify that each alternative other than the no action alternative must meet the purpose and need. The proposed rule also would eliminate the requirement for alternatives to address one or more significant issues related to the proposed action. Alternatives may, but are not required to, address issues related to the proposed action. For example, an alternative may simply

address a different way of responding to the purpose and need for action, consistent with CEQ's requirement to develop alternatives ''in any proposal which involves unresolved conflicts concerning alternative uses of available resources'' (40 CFR 1501.2(c); 1507.2(d)). ''Unresolved conflicts'' and issues often overlap, but not in every instance.

**Proposed Revisions to Forest Service Directives**

*Forest Service Manual 1950 and Handbook 1909.15*

The Forest Service will propose revisions to its directives, Forest Service Handbook (FSH 1909.15) and Manual (FSM 1950), in conjunction with this rulemaking. FSM 1950 provides descriptions of Forest Service NEPA authority, objectives, policy, and responsibilities. Forest Service Handbook 1909.15 provides explanatory guidance interpreting CEQ and Forest Service procedures in regulation. A subsequent notice will be published in the **Federal Register** announcing the availability of the proposed directives and list information on how to comment on the proposed directives. When the notice is published, the proposed directives and a copy of the **Federal Register** notice will be posted at *https://www.fs.fed.us/emc/nepa/revisions/index.htm.*

**Regulatory Certifications**

*National Environmental Policy Act*

The proposed rule would revise agency procedures and guidance for implementing NEPA. Forest Service NEPA procedures are procedural guidance to assist in the fulfillment of agency responsibilities under NEPA, but are not the agency's final determination of what level of NEPA analysis is required for a particular proposed action. The CEQ set forth the requirements for establishing agency NEPA procedures in its regulations at 40 CFR 1505.1 and 1507.3. The CEQ regulations do not require agencies to conduct NEPA analyses or prepare NEPA documentation when establishing their NEPA procedures. The determination that establishing agency NEPA procedures does not require NEPA analysis and documentation has been upheld in *Heartwood, Inc.* v. *U.S. Forest Service,* 230 F.3d 947, 954–55 (7th Cir. 2000).

*Energy Effects*

This proposed rule has been reviewed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this proposed rule does not constitute a significant energy action as defined in the Executive Order.

*Consultation and Coordination With Indian Tribal Governments*

This proposed rule has been reviewed under Executive Order 13175 of November 6, 2000, Consultation and Coordination with Indian Tribal Governments. The Forest Service is sending letters inviting federally recognized Tribes and Alaska Native Corporations to begin consultation on the proposed rule. The Forest Service will continue to conduct government-to-government consultation on the rule until the final rule is published.

Pursuant to Executive Order 13175, the Agency has assessed the impact of this proposed rule on Indian tribal governments and has determined that the proposed rule would not significantly or uniquely affect communities of Indian tribal governments. The proposed rule deals with administrative procedures for complying with the requirements of the National Environmental Policy Act and, as such, has no direct effect on the occupancy and use of NFS land.

The Agency has also determined that this proposed rule would not impose substantial direct compliance costs on Indian tribal governments. This proposed rule does not mandate tribal participation in the Forest Service NEPA process.

The proposed directives will emphasize and recognize the benefit of including Tribes in public engagement strategies. The proposed directives will also highlight opportunities to leverage existing data from Tribes and analyses, along with other Federal, State, or local agencies to gain efficiency in the NEPA process. Inclusion of Tribes, tribal members, tribal organizations, and Alaska Native Corporations in public engagement strategies is beneficial; however, the proposed directives will also recognize these efforts are not a substitute for fulfilling Tribal consultation requirements.

*Executive Orders 12866*

This proposed rule has been reviewed under USDA procedures and Executive Order (E.O.) 12866 issued September 30, 1993, on regulatory planning and review, and the major rule provisions of the Small Business Regulatory Enforcement and Fairness Act (5 U.S.C. 800). The Office of Management and Budget (OMB) has determined that this is a significant rule as defined by E.O. 12866 and therefore will be subject to interagency review.

Many benefits and costs associated with the rule are not quantifiable. Benefits (or cost reductions) derived from the opportunities for public engagement to more fully address public concerns, timely and focused environmental analysis, flexibility in preparation of environmental documents, and improved decision making indicate a positive net benefit of the proposed rule. The proposed rule aims to increase efficiency of environmental analysis while remaining true to NEPA's intent of informed decision making and without weakening the Agency's NEPA process. The proposed rule is expected to increase the pace and scale of forest and grassland management operations on the ground, thereby helping sustain the health of forests and grasslands and meet the needs of the public. The direct benefits of the proposed rule are, therefore, reduced costs and time spent on environmental analysis, where costs include those incurred by the Forest Service as well as by proponents or the public engaged in the environmental analysis process. The indirect benefits to the public are also expected to increase, as the proposed rule would provide for timelier development of, access to, and use of forest ecosystem goods and services, which are provided by healthier and more productive forests.

For example, by implementing Determination of NEPA Adequacy, the Agency anticipates reductions in time and cost as a result of reducing redundant analyses. Use of condition-based management provides flexibility to account for changing conditions on the ground over time. Condition-based management also allows the Agency to satisfy NEPA despite uncertainty through validation of data and assumptions relied upon in NEPA analysis prior to implementation. Use of condition-based management may increase the scope and scale of analyses and the number of activities authorized in a single analysis and decision. These efficiencies may reduce total Agency costs and decisionmaking time. These concepts, however, will take some time to become well-established and widely used; potential benefits will occur over time.

From Fiscal Years 2014 to 2018, the Agency's average annual environmental analysis workload included approximately 1,590 CEs and 277 EAs. The average time to decision for CEs was 206 days and for EAs was 687 days. The proposed rule includes development of 7 new CEs with a decision memo. Focusing on the new CEs, the Agency assumes for the

purpose of this analysis that each CE may be used an average of 1 to 30 times a year. Under these assumptions, the proposed rule may potentially result in 7 to 210 decision memos being completed in lieu of a decision notice. As a result, the Agency may complete NEPA analysis on these projects an average of 1 to 16 months earlier, per project. In practice, these figures will vary dependent upon the project and nature of the CE being used. The Agency also anticipates use of the new CEs to slowly increase over time, taking into account time for adoption across the agency as has been observed during implementation of other new CEs over the course of the past several years. The Agency has recent experience implementing new CEs, such as the three soil and water restoration CEs that were established in 2013 and recent legislative amendments to the Healthy Forests Restoration Act (HFRA) Section 603 and 605, in 2014 and 2018, respectively.

There is potential for some time and cost savings by removing formal scoping periods for some EAs and CEs; however, under existing scoping practices, other work on a project often continues during scoping and not every day is actively spent working on a project. Therefore, it is difficult to quantify estimated savings. The changes proposed place emphasis on right-sizing public engagement opportunities and allow for discretion and flexibility in our scoping and public engagement mechanisms. This approach will allow the Agency to concentrate resources on projects that are potentially more complex or have greater public interest. Increased discretion and flexibility can provide more transparency, provide timelier responses to public needs, and accelerate decisionmaking.

Some members of the public may perceive the changes to scoping as a cost. However, the Agency's public engagement requirements will still exceed the requirements of CEQ's NEPA regulations notifying the public through posting all EISs, EAs, and CEs with an associated decision memo to the Schedule of Proposed Actions. This perceived cost is further reduced in the case of EAs due to the Agency's requirement under 36 CFR 218 to provide notice and an opportunity to comment.

*Executive Order 13771*

The proposed rule has been reviewed in accordance with E.O. 13771 on reducing regulation and controlling regulatory costs, and is considered an E.O. deregulatory action. The impacts of the proposed rule are as discussed above.

*Congressional Review Act*

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a 'major rule', as defined by 5 U.S.C. 804(2).

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Flexibility Enforcement Fairness Act of 1996 and Executive Order 13272, requires an agency to prepare a regulatory flexibility analysis of rules which have received a significant determination by the Office of Management and Budget under Executive Order 12866. The proposed rule only directly affects the Forest Service, and as such, will not have a significant impact on a substantial number of small entities. The proposed rule is expected to have a minor positive indirect effect on small entities, including small government entities, by increasing efficiencies in environmental analysis and decision making, improving clarity, and reducing delays associated with NEPA compliance.

*Federalism*

The Agency has considered this proposed rule under the requirements of Executive Order 13132, Federalism. The Agency has concluded that the rule conforms with the federalism principles set out in this Executive Order; will not impose any compliance costs on the states; and will not have substantial direct effects on the States or the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the Agency has determined that no further assessment of federalism implications is necessary.

*No Takings Implications*

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and it has been determined that the rule does not pose the risk of a taking of protected private property.

*Civil Justice Reform*

This proposed rule has been reviewed under E.O. 12988, Civil Justice Reform. Under the proposed rule, (1) all State and local laws and regulations that conflict with this proposed rule or impede its full implementation will be preempted; (2) no retroactive effect is given to this proposed rule; and (3) exhaustion of administrative proceedings before parties may file suit in court challenging its provisions is required.

*Unfunded Mandates Reform Act*

Pursuant to Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (2 U.S.C. 1531–1538), the Agency has assessed the effects of the proposed rule on State, local, and Tribal governments, and the private sector. This proposed rule would not compel the expenditure of $100 million or more by any State, local, or Tribal government, or anyone in the private sector. Therefore, this proposed rule is not subject to the requirements of section 202 and 205 of the UMRA.

*Controlling Paperwork Burdens on the Public*

This proposed rule does not contain any additional recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law, or are not already approved for use, and therefore imposes no additional paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

**List of Subjects in 36 CFR Part 220**

Administrative practices and procedures, Environmental impact statements, Environmental protection, National forests, Science and technology.

■ Therefore, for the reasons set forth in the preamble, the Department of Agriculture proposes to amend chapter II of Title 36 of the Code of Federal Regulations by revising part 220 to read as follows:

## PART 220—National Environmental Policy Act (NEPA) Compliance

Sec.
220.1 Purpose and scope.
220.2 Applicability.
220.3 Definitions.
220.4 General requirements.
220.5 Categorical exclusions.
220.6 Environmental assessment and decision notice.
220.7 Environmental impact statement and record of decision.

**Authority:** 42 U.S.C. 4321 *et seq.*; E.O. 11514; 40 CFR parts 1500–1508; 7 CFR part 1b.

**§ 220.1 Purpose and scope.**

(a) *Purpose.* This part establishes Forest Service, U.S. Department of Agriculture (USDA) procedures for compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) and the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500 through 1508).

(b) *Scope.* This part supplements and does not lessen the applicability of the CEQ regulations, and is to be used in conjunction with the CEQ regulations and USDA regulations at 7 CFR part 1b.

**§ 220.2 Applicability.**

This part applies to all organizational elements of the Forest Service. Consistent with 40 CFR 1500.3, no trivial violation of this part shall give rise to any independent cause of action.

**§ 220.3 Definitions.**

The following definitions supplement, by adding to, the terms defined at 40 CFR parts 1500 through 1508.

*Adaptive management.* A system of management practices based on clearly identified intended outcomes and monitoring to determine if management actions are meeting those outcomes; and, if not, to facilitate management changes that will best ensure that those outcomes are met or re-evaluated. Adaptive management stems from the recognition that knowledge about natural resource systems is sometimes uncertain.

*Condition-based management.* A system of management practices based on implementation of specific design elements from a broader proposed action, where the design elements vary according to a range of on-the-ground conditions in order to meet intended outcomes. Condition-based management stems from the recognition that the environment is dynamic, changing as ecosystems respond to changing natural and human-caused events.

*Decision document.* A record of decision, decision notice or decision memo.

*Decision memo.* A concise written record of the responsible official's decision to implement an action categorically excluded from analysis and documentation in an environmental impact statement (EIS) or environmental assessment (EA).

*Decision notice.* A concise written record of the responsible official's decision when an EA and finding of no significant impact (FONSI) have been prepared.

*Environmentally preferable alternative.* The environmentally preferable alternative is the alternative that will best promote the national environmental policy as expressed in NEPA's section 101 (42 U.S.C. 4321). Ordinarily, the environmentally preferable alternative is that which causes the least harm to the biological and physical environment; it also is the alternative which best protects and preserves historic, cultural, and natural resources. In some situations, there may be more than one environmentally preferable alternative.

*Reasonably foreseeable future actions.* Those Federal or non-Federal activities not yet undertaken, for which there are existing decisions, funding, or identified proposals. Identified proposals for Forest Service actions are described in § 220.4(a).

*Responsible official.* The Agency employee who has the authority to make and implement a decision on a proposed action.

*Schedule of proposed actions (SOPA).* A Forest Service document that provides public notice about those proposed Forest Service actions for which a record of decision, decision notice, or decision memo would be or has been prepared. The SOPA also identifies a contact for additional information on proposed actions.

**§ 220.4 General requirements.**

(a) *Proposed actions subject to the NEPA requirements.* As required by 42 U.S.C. 4321 *et seq.,* a Forest Service proposal is subject to the NEPA requirements when all of the following apply:

(1) The Forest Service has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated (*see* 40 CFR 1508.23);

(2) The proposed action is subject to Forest Service control and responsibility (*see* 40 CFR 1508.18);

(3) The proposed action would cause effects on the natural and physical environment and the relationship of people with that environment (*see* 40 CFR 1508.14); and

(4) The proposed action is not statutorily exempt from the requirements of section 102(2)(C) of the NEPA (42 U.S.C. 4332(2)(C)).

(b) *Emergency responses.* When the responsible official determines that an emergency exists that makes it necessary to take urgently needed actions before preparing a NEPA analysis and any required documentation in accordance with the provisions in §§ 220.5, 220.6, and 220.7 of this part, then the following provisions apply.

(1) The responsible official may take actions necessary to control the immediate impacts of the emergency and are urgently needed to mitigate harm to life, property, or important natural or cultural resources. When taking such actions, the responsible official shall take into account the probable environmental consequences of the emergency action and mitigate foreseeable adverse environmental effects to the extent practicable.

(2) If the responsible official proposes emergency actions other than those actions described in paragraph (b)(1) of this section, and such actions are not likely to have significant environmental impacts, the responsible official shall document that determination in an EA and FONSI prepared in accord with these regulations. If the responsible official finds that the nature and scope of proposed emergency actions are such that they must be undertaken prior to preparing any NEPA analysis and documentation associated with a CE or an EA and FONSI, the responsible official shall consult with the Washington Office about alternative arrangements for NEPA compliance. The Chief or Associate Chief of the Forest Service may grant emergency alternative arrangements under NEPA for environmental assessments, findings of no significant impact and categorical exclusions (FSM 1950.41a). Consultation with the Washington Office shall be coordinated through the appropriate regional office.

(3) If the responsible official proposes emergency actions other than those actions described in paragraph (b)(1) of this section and such actions are likely to have significant environmental impacts, then the responsible official shall consult with CEQ, through the appropriate regional office and the Washington Office, about alternative arrangements in accordance with CEQ regulations at 40 CFR 1506.11 as soon as possible.

(c) *Agency decisionmaking.* For each Forest Service proposal (§ 220.4(a)), the responsible official shall coordinate and integrate NEPA review and relevant environmental documents with agency decisionmaking by:

(1) Leading the proposal development and environmental analysis process, to ensure a focused approach;

(2) Completing the environmental document review before making a decision on the proposal;

(3) Considering environmental documents, public and other agency comments (if any) on those documents,

and agency responses to those comments;

(4) Including environmental documents, comments, and responses in the administrative record;

(5) Considering the alternatives analyzed in environmental document(s) before rendering a decision on the proposal; and

(6) Making a decision encompassed within the range of alternatives analyzed in the environmental documents.

(d) *Scoping and public notice.* Minimum requirements for scoping and public notice are listed below, except where specified by applicable statutes or regulations (for example, 36 CFR part 218). Additional public involvement is at the discretion of the local responsible official.

(1) The Forest Service will publish to the Schedule of Proposed Actions (SOPA) all proposed actions that will be documented with a decision memo, environmental assessment, or environmental impact statement. The local responsible official shall ensure the SOPA is updated and notify the public of the availability of the SOPA.

(2) Scoping is required for all Forest Service environmental impact statements (40 CFR 1501.7).

(e) *Cumulative effects considerations of past actions.* Cumulative effects analysis shall be carried out in accordance with 40 CFR 1508.7 and in accordance with ''The Council on Environmental Quality Guidance Memorandum on Consideration of Past Actions in Cumulative Effects Analysis'' dated June 24, 2005. The analysis of cumulative effects begins with consideration of the direct and indirect effects on the environment that are expected or likely to result from the alternative proposals for agency action. Agencies then look for present effects of past actions that are, in the judgment of the agency, relevant and useful because they have a significant cause-and-effect relationship with the direct and indirect effects of the proposal for agency action and its alternatives. CEQ regulations do not require the consideration of the individual effects of all past actions to determine the present effects of past actions. Once the agency has identified those present effects of past actions that warrant consideration, the agency assesses the extent that the effects of the proposal for agency action or its alternatives will add to, modify, or mitigate those effects. The final analysis documents an agency assessment of the cumulative effects of the actions considered (including past, present, and reasonably foreseeable future actions) on the affected environment. With respect to past actions, during the public involvement process and subsequent preparation of the analysis, the agency must determine what information regarding past actions is useful and relevant to the required analysis of cumulative effects. Cataloging past actions and specific information about the direct and indirect effects of their design and implementation could, in some contexts, be useful to predict the cumulative effects of the proposal. The CEQ regulations, however, do not require agencies to catalogue or exhaustively list and analyze all individual past actions. Simply because information about past actions may be available or obtained with reasonable effort does not mean that it is relevant and necessary to inform decisionmaking. (40 CFR 1508.7)

(f) *Classified information.* To the extent practicable, the responsible official shall segregate any information that has been classified pursuant to Executive order or statute. The responsible official shall maintain the confidentiality of such information in a manner required for the information involved. Such information may not be included in any publicly disclosed documents. If such material cannot be reasonably segregated, or if segregation would leave essentially meaningless material, the responsible official must withhold the entire analysis document from the public; however, the responsible official shall otherwise prepare the analysis documentation in accord with applicable regulations. (40 CFR 1507.3(c))

(g) *Incorporation by reference.* Material may be incorporated by reference into any environmental or decision document. This material must be reasonably available to the public and its contents briefly described in the environmental or decision document. (40 CFR 1502.21)

(h) *Applicants.* The responsible official shall make policies or staff available to advise potential applicants of studies or other information foreseeably required for acceptance of their applications. Upon acceptance of an application as provided by 36 CFR 251.54(g) the responsible official shall initiate the NEPA process.

(i) *Determination of NEPA Adequacy.* (1) NEPA analysis performed for a previous proposed action can suffice for a new proposed action. A Determination of NEPA Adequacy (DNA) is a tool to determine whether a previously completed NEPA analysis can satisfy NEPA's requirements for a subsequent proposed action. In making this determination, the responsible official shall evaluate:

(i) Is the new proposed action essentially similar to a previously analyzed proposed action or alternative analyzed in detail in previous NEPA analysis?

(ii) Is the range of alternatives previously analyzed adequate under present circumstances?

(iii) Is there any significant new information or circumstances relevant to environmental concerns that would substantially change the analysis in the existing NEPA document(s)?

(iv) Are the direct, indirect, and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document(s)?

(2) A DNA for a new proposed action shall be included in the project record for the new proposed project or activity. New project and activity decisions made in reliance on a DNA shall be subject to all applicable notice, comment, and administrative review processes.

(j) *Adaptive Management.* The proposed action and any alternatives to the proposed action may include adaptive management. An adaptive management proposal or alternative must clearly identify the adjustment(s) that may be made when monitoring during project implementation indicates that the action is not having its intended effect, or is causing unintended and undesirable effects. The NEPA analysis must disclose not only the effect of the proposed action or alternative but also the effect of the adjustment. Such proposal or alternative must also describe the monitoring that would take place to inform the responsible official during implementation whether the action is having its intended effect.

(k) *Condition-based management.* The proposed action and any alternatives may include condition-based management. A condition-based management alternative must clearly identify the management actions that will be undertaken, and any design elements that will be implemented, when a certain set or range of conditions are present. The NEPA analysis must disclose the effects of all condition-based actions, taking into account design elements that limit such actions. Such proposal or alternative must also describe the process by which conditions will be validated prior to implementation.

(l) *Supplementation and new information.* (1) The responsible official shall prepare supplements to either draft or final environmental impact

statements (40 CFR 1502.9(c) or environmental assessments if:

(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or

(ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts and there remains Federal action to occur.

(2) The responsible official may prepare a supplemental information report to document the review of potentially significant new circumstances or information. If a supplemental information report is prepared, it shall be included in the project record.

**§ 220.5 Categorical exclusions.**

(a) *General.* A proposed action may be categorically excluded from analysis and documentation in an EA or EIS when there are no extraordinary circumstances related to the proposed action, and the proposed action is within one or more of the categories listed at 7 CFR part 1b.3 or 36 CFR 220.5(d) or (e). All categories are independently established and do not constrain or limit the operation of each other. Multiple categories may be relied upon for a single proposed action when a single category does not cover all aspects of the proposed action.

(b) *Resource conditions.* (1) Resource conditions that should be considered in determining whether extraordinary circumstances related to a proposed action warrant analysis and documentation in an EA or an EIS are:

(i) Federally listed threatened or endangered species or designated critical habitat and species proposed for Federal listing or proposed critical habitat;

(ii) Flood plains, wetlands, or municipal watersheds;

(iii) Congressionally designated areas, such as wilderness, wilderness study areas, potential wilderness areas, wild and scenic rivers, or national recreation areas;

(iv) Roadless areas designated under 36 CFR part 294;

(v) Research natural areas;

(vi) American Indian and Alaska Native religious or cultural sites; and

(vii) Archaeological sites, or historic properties or areas.

(2) The mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion. Extraordinary circumstances exist when there is a cause-and-effect relationship between a proposed action and listed resource conditions and the responsible official determines that there is a likelihood of substantial adverse effects. The responsible official may consider whether long-term beneficial effects outweigh short-term adverse effects in making this determination.

(c) *Public involvement.* In addition to public notice in the SOPA, as required at 220.4(d), the responsible official may choose to conduct additional public engagement activities to involve key stakeholders and interested parties. This additional involvement shall be conducted commensurate with the nature of the decision to be made.

(d) *Categories of actions for which a project or case file and decision memo are not required.* A supporting record and a decision memo are not required, but at the discretion of the responsible official, may be prepared for the following categories:

(1) Orders issued pursuant to 36 CFR part 261—Prohibitions to provide short-term resource protection or to protect public health and safety. Examples include but are not limited to:

(i) Closing a road to protect bighorn sheep during lambing season, and

(ii) Closing an area during a period of extreme fire danger.

(2) Rules, regulations, or policies to establish service-wide administrative procedures, program processes, or instructions. Examples include but are not limited to:

(i) Adjusting special use or recreation fees using an existing formula;

(ii) Proposing a technical or scientific method or procedure for screening effects of emissions on air quality related values in Class I wildernesses;

(iii) Proposing a policy to defer payments on certain permits or contracts to reduce the risk of default;

(iv) Proposing changes in contract terms and conditions or terms and conditions of special use authorizations;

(v) Establishing a service-wide process for responding to offers to exchange land and for agreeing on land values; and

(vi) Establishing procedures for amending or revising forest land and resource management plans.

(3) Repair and maintenance of administrative sites. Examples include but are not limited to:

(i) Mowing lawns at a district office;

(ii) Replacing a roof or storage shed;

(iii) Painting a building; and

(iv) Applying registered pesticides for rodent or vegetation control.

(4) Repair and maintenance of roads, trails, and landline boundaries. Examples include but are not limited to:

(i) Authorizing a user to grade, resurface, and clean the culverts of an established NFS road;

(ii) Grading a road and clearing the roadside of brush without the use of herbicides;

(iii) Resurfacing a road to its original condition;

(iv) Pruning vegetation and cleaning culverts along a trail and grooming the surface of the trail; and

(v) Surveying, painting, and posting landline boundaries.

(5) Repair and maintenance of recreation sites and facilities. Examples include but are not limited to:

(i) Applying registered herbicides to control poison ivy on infested sites in a campground;

(ii) Applying registered insecticides by compressed air sprayer to control insects at a recreation site complex;

(iii) Repaving a parking lot; and

(iv) Applying registered pesticides for rodent or vegetation control.

(6) Acquisition of land or interest in land. Examples include but are not limited to:

(i) Accepting the donation of lands or interests in land to the NFS, and

(ii) Purchasing fee, conservation easement, reserved interest deed, or other interests in lands.

(7) Sale or exchange of land or interest in land and resources where resulting land uses remain essentially the same. Examples include but are not limited to:

(i) Selling or exchanging land pursuant to the Small Tracts Act;

(ii) Exchanging NFS lands or interests with a State agency, local government, or other non-Federal party (individual or organization) with similar resource management objectives and practices;

(iii) Authorizing the Bureau of Land Management to issue leases on producing wells when mineral rights revert to the United States from private ownership and there is no change in activity; and

(iv) Exchange of administrative sites involving other than NFS lands.

(8) Approval, modification, or continuation of minor short-term (1 year or less) special uses of NFS lands. Examples include but are not limited to:

(i) Approving, on an annual basis, the intermittent use and occupancy by a State-licensed outfitter or guide;

(ii) Approving the use of NFS land for apiaries; and

(iii) Approving the gathering of forest products for personal use.

(9) Issuance of a new permit for up to the maximum tenure allowable under the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) for an existing ski area when such issuance is a purely ministerial action to account for administrative changes, such as a change in ownership of ski area improvements, expiration of the current permit, or a change in the statutory authority applicable to the current permit. Examples include, but are not limited to:

(i) Issuing a permit to a new owner of ski area improvements within an existing ski area with no changes to the master development plan, including no changes to the facilities or activities for that ski area;

(ii) Upon expiration of a ski area permit, issuing a new permit to the holder of the previous permit where the holder is not requesting any changes to the master development plan, including changes to the facilities or activities; and

(iii) Issuing a new permit under the National Forest Ski Area Permit Act of 1986 to the holder of a permit issued under the Term Permit and Organic Acts, where there are no changes in the type or scope of activities authorized and no other changes in the master development plan.

(10) [Reserved]

(11) Issuance of a new special use authorization to replace an existing or expired special use authorization, when such issuance is a purely clerical action to account for administrative changes, such as a change in ownership of authorized improvements or expiration of the current authorization, and where there are no changes to the authorized facilities or increases in the scope or intensity of authorized activities. The applicant or holder must be in compliance with all the terms and conditions of the existing or expired special use authorization. Subject to the foregoing conditions, examples include but are not limited to:

(i) Issuing a new authorization to replace a powerline authorization that is at the end of its term;

(ii) Issuing a new permit to replace an expired permit for a road that continues to be used as access to non-NFS lands.

(iii) Issuing a new permit to replace an outfitting and guiding permit that is at the end of its term, or to convert a transitional priority use outfitting and guiding permit to a priority use outfitting and guiding permit.

(12) Issuance of a new authorization or amendment of an existing authorization for activities that occur on existing roads or trails, in existing facilities, or in areas where activities are consistent with the applicable land management plan or other documented decision. Subject to the foregoing condition, examples include but are not limited to:

(i) Issuance of an outfitting and guiding permit for mountain biking on NFS trails that are not closed to mountain biking;

(ii) Issuance of a permit to host a motorcycle enduro ride on existing roads;

(iii) Issuance of an outfitting and guiding permit for backcountry skiing;

(iv) Issuance of a permit for a one time use of existing facilities for fund raising activities and other recreational events.

(v) Issuance of a campground concession permit for an existing campground that has previously been operated by the Forest Service.

(e) *Categories of actions for which a project or case file and decision memo are required.* A supporting record is required and the decision to proceed must be documented in a decision memo for the categories of action in paragraphs (e)(1) through (28) of this section. As a minimum, the project or case file should include any records prepared, such as: The names of interested and affected people, groups, and agencies contacted; the determination that no extraordinary circumstances exist; a copy of the decision memo; and a list of the people notified of the decision.

(1) Construction and reconstruction of trails. Examples include, but are not limited to:

(i) Constructing or reconstructing a trail to a scenic overlook, and

(ii) Reconstructing an existing trail to allow use by individuals with disabilities.

(2) Additional construction or reconstruction of existing telephone or utility lines in a designated corridor. Examples include, but are not limited to:

(i) Replacing an underground cable trunk and adding additional phone lines, and

(ii) Reconstructing a power line by replacing poles and wires.

(3) Approval, modification, or continuation of special uses that require less than 20 acres of NFS lands. Subject to the preceding condition, examples include but are not limited to:

(i) Approving the construction of a meteorological sampling site;

(ii) Approving the use of land for a one-time group event;

(iii) Approving the construction of temporary facilities for filming of staged or natural events or studies of natural or cultural history;

(iv) Approving the use of land for a 40-foot utility corridor that crosses four miles of a national forest;

(v) Approving the installation of a driveway or other facilities incidental to use of a private residence;

(vi) Approving new or additional telecommunication facilities, improvements, or use at a site already used for such purposes;

(vii) Approving the expansion of an existing gravel pit or the removal of mineral materials from an existing community pit or common-use area;

(viii) Approving the continued use of land where such use has not changed since authorized and no change in the physical environment or facilities are proposed.

(4) [Reserved]

(5) Regeneration of an area to native tree species, including site preparation that does not involve the use of herbicides or result in vegetation type conversion. Examples include, but are not limited to:

(i) Planting seedlings of superior trees in a progeny test site to evaluate genetic worth, and

(ii) Planting trees or mechanical seed dispersal of native tree species following a fire, flood, or landslide.

(6) Timber stand and/or wildlife habitat improvement activities that do not include the use of herbicides or do not require more than 1 mile of low standard road construction. Examples include, but are not limited to:

(i) Girdling trees to create snags;

(ii) Thinning or brush control to improve growth or to reduce fire hazard including the opening of an existing road to a dense timber stand;

(iii) Prescribed burning to control understory hardwoods in stands of southern pine; and

(iv) Prescribed burning to reduce natural fuel build-up and improve plant vigor.

(7) Modification or maintenance of stream or lake aquatic habitat improvement structures using native materials or normal practices. Examples include, but are not limited to:

(i) Reconstructing a gabion with stone from a nearby source;

(ii) Adding brush to lake fish beds; and

(iii) Cleaning and resurfacing a fish ladder at a hydroelectric dam.

(8) Short-term (1 year or less) mineral, energy, or geophysical investigations and their incidental support activities that may require cross-country travel by vehicles and equipment, construction of less than 1 mile of low standard road, or use and minor repair of existing roads. Examples include, but are not limited to:

(i) Authorizing geophysical investigations which use existing roads that may require incidental repair to reach sites for drilling core holes, temperature gradient holes, or seismic shot holes;

(ii) Gathering geophysical data using shot hole, vibroseis, or surface charge methods;

(iii) Trenching to obtain evidence of mineralization;

(iv) Clearing vegetation for sight paths or from areas used for investigation or support facilities;

(v) Redesigning or rearranging surface facilities within an approved site;

(vi) Approving interim and final site restoration measures; and

(vii) Approving a plan for exploration which authorizes repair of an existing road and the construction of ⅓ mile of temporary road; clearing vegetation from an acre of land for trenches, drill pads, or support facilities.

(9) Implementation or modification of minor management practices to improve allotment condition or animal distribution when an allotment management plan is not yet in place. Examples include, but are not limited to:

(i) Rebuilding a fence to improve animal distribution;

(ii) Adding a stock watering facility to an existing water line; and

(iii) Spot seeding native species of grass or applying lime to maintain forage condition.

(10) [Reserved]

(11) Post-fire rehabilitation activities, not to exceed 4,200 acres (such as tree planting, fence replacement, habitat restoration, heritage site restoration, repair of roads and trails, and repair of damage to minor facilities such as campgrounds), to repair or improve lands unlikely to recover to a management approved condition from wildland fire damage, or to repair or replace minor facilities damaged by fire. Such activities:

(i) Shall be conducted consistent with Agency and Departmental procedures and applicable land and resource management plans;

(ii) Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure; and

(iii) Shall be completed within 3 years following a wildland fire.

(12) Harvest of live trees not to exceed 70 acres, requiring no more than ½ mile of temporary road construction. Do not use this category for even-aged regeneration harvest or vegetation type conversion. The proposed action may include incidental removal of trees for landings, skid trails, and road clearing. Examples include, but are not limited to:

(i) Removal of individual trees for sawlogs, specialty products, or fuelwood, and

(ii) Commercial thinning of overstocked stands to achieve the desired stocking level to increase health and vigor.

(13) Salvage of dead and/or dying trees not to exceed 250 acres, requiring no more than ½ mile of temporary road construction. The proposed action may include incidental removal of live or dead trees for landings, skid trails, and road clearing. Examples include, but are not limited to:

(i) Harvest of a portion of a stand damaged by a wind or ice event and construction of a short temporary road to access the damaged trees, and

(ii) Harvest of fire-damaged trees.

(14) Commercial and non-commercial sanitation harvest of trees to control insects or disease not to exceed 250 acres, requiring no more than ½ mile of temporary road construction, including removal of infested/infected trees and adjacent live uninfested/uninfected trees as determined necessary to control the spread of insects or disease. The proposed action may include incidental removal of live or dead trees for landings, skid trails, and road clearing. Examples include, but are not limited to:

(i) Felling and harvest of trees infested with southern pine beetles and immediately adjacent uninfested trees to control expanding spot infestations, and

(ii) Removal and/or destruction of infested trees affected by a new exotic insect or disease, such as emerald ash borer, Asian long horned beetle, and sudden oak death pathogen.

(15) [Reserved]

(16) Plan amendments developed in accordance with 36 CFR part 219 *et seq.* that provide broad guidance and information for project and activity decisionmaking in a NFS unit. Proposals for actions that approve projects and activities, or that command anyone to refrain from undertaking projects and activities, or that grant, withhold or modify contracts, permits or other formal legal instruments, are outside the scope of this category and shall be considered separately under Forest Service NEPA procedures.

(17) Approval of a Surface Use Plan of Operations for oil and natural gas exploration and initial development activities, associated with or adjacent to a new oil and/or gas field or area, so long as the approval will not authorize activities in excess of any of the following:

(i) One mile of new road construction;

(ii) One mile of road reconstruction;

(iii) Three miles of individual or co-located pipelines and/or utilities disturbance; or

(iv) Four drill sites.

(18) Restoring wetlands, streams, riparian areas or other water bodies by removing, replacing, or modifying water control structures such as, but not limited to, dams, levees, dikes, ditches, culverts, pipes, drainage tiles, valves, gates, and fencing, to allow waters to flow into natural channels and floodplains and restore natural flow regimes to the extent practicable where valid existing rights or special use authorizations are not unilaterally altered or canceled. Examples include but are not limited to:

(i) Repairing an existing water control structure that is no longer functioning properly with minimal dredging, excavation, or placement of fill, and does not involve releasing hazardous substances;

(ii) Installing a newly-designed structure that replaces an existing culvert to improve aquatic organism passage and prevent resource and property damage where the road or trail maintenance level does not change;

(iii) Removing a culvert and installing a bridge to improve aquatic and/or terrestrial organism passage or prevent resource or property damage where the road or trail maintenance level does not change; and

(iv) Removing a small earthen and rock fill dam with a low hazard potential classification that is no longer needed.

(19) Removing and/or relocating debris and sediment following disturbance events (such as floods, hurricanes, tornados, mechanical/engineering failures, etc.) to restore uplands, wetlands, or riparian systems to pre-disturbance conditions, to the extent practicable, such that site conditions will not impede or negatively alter natural processes. Examples include but are not limited to:

(i) Removing an unstable debris jam on a river following a flood event and relocating it back in the floodplain and stream channel to restore water flow and local bank stability;

(ii) Clean-up and removal of infrastructure flood debris, such as, benches, tables, outhouses, concrete, culverts, and asphalt following a hurricane from a stream reach and adjacent wetland area; and

(iii) Stabilizing stream banks and associated stabilization structures to reduce erosion through bioengineering techniques following a flood event, including the use of living and nonliving plant materials in combination with natural and synthetic support materials, such as rocks, riprap, geo-textiles, for slope stabilization, erosion reduction, and vegetative establishment and establishment of appropriate plant communities (bank shaping and planting, brush mattresses, log, root wad, and boulder stabilization methods).

(20) Activities that restore, rehabilitate, or stabilize lands occupied by roads and trails, including unauthorized roads and trails and NFS roads and NFS trails, to a more natural

condition that may include removing, replacing, or modifying drainage structures and ditches, reestablishing vegetation, reshaping natural contours and slopes, reestablishing drainage-ways, or other activities that would restore site productivity and reduce environmental impacts. Examples include but are not limited to:

(i) Decommissioning a road to a more natural state by restoring natural contours and removing construction fills, loosening compacted soils, revegetating the roadbed and removing ditches and culverts to reestablish natural drainage patterns;

(ii) Restoring a trail to a natural state by reestablishing natural drainage patterns, stabilizing slopes, reestablishing vegetation, and installing water bars; and

(iii) Installing boulders, logs, and berms on a road segment to promote naturally regenerated grass, shrub, and tree growth.

(21) Construction, reconstruction, decommissioning, relocation, or disposal of buildings, infrastructure, or other improvements at an existing administrative site, as that term is defined in section 502(1) of Public Law 109–54 (119 Stat. 559; 16 U.S.C. 580d note). Examples include but are not limited to:

(i) Relocating an administrative facility to another existing administrative site;

(ii) Construction, reconstruction, or expansion of an office, a warehouse, a lab, a greenhouse, or a fire-fighting facility;

(iii) Surface or underground installation or decommissioning of a water or waste disposal system infrastructure;

(iv) Disposal of an administrative building; and

(v) Construction or reconstruction of communications infrastructure.

(22) Construction, reconstruction, decommissioning, or disposal of buildings, infrastructure, or improvements at an existing recreation site either managed by the Forest Service or managed under special use authorities, including infrastructure or improvements that are adjacent or connected to an existing recreation site and provide access or utilities for that site. Recreation sites include but are not limited to campgrounds and camping areas, picnic areas, day use areas, fishing sites, interpretive sites, visitor centers, trailheads, ski areas, and observation sites. Activities within this category are intended to apply to facilities located on recreation sites managed by the Forest Service and those managed by concessioners under a special use authorization. Examples include but are not limited to:

(i) Constructing, reconstructing, or expanding a toilet or shower facility;

(ii) Constructing or reconstructing a fishing pier, wildlife viewing platform, dock, or other constructed feature at a recreation site;

(iii) Installing or reconstructing a water or waste disposal system;

(iv) Constructing or reconstructing campsites;

(v) Disposal of facilities at a recreation site;

(vi) Constructing or reconstructing a boat landing;

(vii) Replacing a chair lift at a ski area;

(viii) Constructing or reconstructing a parking area or trailhead; and

(ix) Reconstructing or expanding a recreation rental cabin.

(23) Converting a non-NFS or unauthorized trail or trail segment to an NFS trail when determined appropriate by the responsible official and consistent with applicable land management plan direction, travel management decisions, trail-specific decisions, and other related direction. Examples include but are not limited to:

(i) Converting an unauthorized trail that crosses land acquired by the Forest Service to an NFS trail; and

(ii) Converting an unauthorized trail to an NFS trail, including associated repair and reconstruction activities, to enhance access and recreation opportunities.

(24) Construction or realignment of up to 5 miles of NFS roads, reconstruction of up to 10 miles of NFS roads and associated parking areas, opening or closing an NFS road, and culvert or bridge rehabilitation or replacement along NFS roads. Examples include but are not limited to:

(i) Reconstructing an NFS road or parking area to address deferred maintenance;

(ii) Constructing an NFS road to improve access to a trailhead or parking area;

(iii) Modifying the surface of an NFS road;

(iv) Rerouting an NFS road to minimize resource impacts;

(v) Closing an NFS road to address resource impacts; and

(vi) Shoulder widening or other safety improvements within the right-of-way for an NFS road.

(25) Converting an unauthorized or non-NFS road to an NFS road. Examples include but are not limited to:

(i) Converting a non-NFS road that crosses land acquired by the Forest Service to an NFS road; and

(ii) Converting a non-NFS road to an NFS road to enhance access and recreation opportunities.

(26) Ecosystem restoration and/or resilience activities on NFS lands in compliance with the applicable land management plan, including, but not limited to the plan's goals, objectives, or desired conditions. Activities to improve ecosystem health, resilience, and other watershed conditions cannot exceed 7,300 treated acres. If commercial/non-commercial timber harvest activities are proposed they must be carried out in combination with at least one additional restoration activity and harvested acres cannot exceed 4,200 of the 7,300 acres.

(i) Restoration and resilience activities include, but are not limited to:

(A) Terrestrial and aquatic habitat improvement and/or creation,

(B) Stream restoration, aquatic organism passage, or erosion control,

(C) Road and/or trail decommissioning (system and non-system),

(D) Control of invasive species and reestablishing native species,

(E) Hazardous fuels reduction and/or wildfire risk reduction,

(F) Prescribed burning,

(G) Reforestation,

(H Commercial harvest, and/or

(I) Non/pre-commercial thinning,

(ii) *Road and trail limitation.* A restoration/resilience activity under this category may include:

(A) Construction of permanent roads up to 0.5 miles.

(B) Maintenance or reconstruction of NFS roads and system trails, such as relocation of road or trail segments to address resource impacts.

(C) Construction of temporary roads up to 2.5 miles. All temporary roads constructed for a project under this category shall be decommissioned no later than 3 years after the date the project is completed.

(27) A Forest Service action that will be implemented jointly with another Federal agency and the action qualifies for a categorical exclusion of the other Federal agency. If the Forest Service chooses to use another Federal agency's categorical exclusion to cover a proposed action, the responsible official must obtain written concurrence from the other Federal agency that the categorical exclusion applies to the proposed action.

(f) *Decision memos.* The responsible official shall notify interested or affected parties of the availability of the decision memo as soon as practicable after signing. While sections may be combined or rearranged in the interest of clarity and brevity, decision memos must include the following content:

(1) A heading, which must identify:

(i) Title of document: Decision Memo;

(ii) Agency and administrative unit;

(iii) Title of the proposed action; and

(iv) Location of the proposed action, including administrative unit, county, and State.

(2) Decision to be implemented and the reasons for categorically excluding the proposed action including:

(i) The category of the proposed action;

(ii) The rationale for using the category or categories;

(iii) A finding that no extraordinary circumstances exist;

(3) Any interested and affected agencies, organizations, and persons contacted;

(4) Findings required by other laws such as, but not limited to findings of consistency with the forest land and resource management plan as required by the National Forest Management Act; or a public interest determination (36 CFR 254.3(b));

(5) The date when the responsible official intends to implement the decision and any conditions related to implementation;

(6) Whether the decision is subject to administrative review, the applicable regulations, and when and where to file a request for review;

(7) Name, address, and phone number of a contact person who can supply further information about the decision; and

(8) The responsible official's signature and date when the decision is made.

**§ 220.6 Environmental assessment and decision notice.**

(a) *Environmental assessment.* An environmental assessment (EA) shall be prepared for proposals as described in § 220.4(a) that are not categorically excluded (§ 220.5) and for which the need for an EIS has not been determined (§ 220.7). An EA may be prepared in any format useful to determine whether to prepare either an EIS or a FONSI, as long as the requirements of paragraph (b) of this section are met. The EA may incorporate by reference information that is reasonably available to the public.

(b) *An EA must include the following:*

(1) *Need for the proposal.* The EA must briefly describe the need for the project.

(2) *Proposed action and alternative(s).* The EA shall briefly describe the proposed action and any alternative(s) that meet the need for action. No specific number of alternatives is required or prescribed.

(i) When there are no unresolved conflicts concerning alternative uses of available resources (NEPA, section 102(2)(E)), the EA need only analyze the proposed action and may proceed without consideration of additional alternatives.

(ii) The EA may document consideration of a no-action alternative through the effects analysis by contrasting the impacts of the proposed action and any alternative(s) with the current condition and expected future condition if the proposed action were not implemented.

(iii) The description of the proposal and any alternative(s) may include a brief description of incremental modifications developed through the analysis process. The documentation of these incremental changes to a proposed action or alternatives may be incorporated by reference.

(3) *Environmental Impacts of the Proposed Action and Alternative(s).* The EA:

(i) Shall briefly provide sufficient evidence and analysis, including the environmental impacts of the proposed action and alternative(s), to determine whether to prepare either an EIS or a FONSI (40 CFR 1508.9);

(ii) Shall disclose the environmental effects of any adaptive management adjustments;

(iii) Shall describe the impacts of the proposed action and any alternatives in terms of context and intensity as described in the definition of ''significantly'' at 40 CFR 1508.27;

(iv) May discuss the direct, indirect, and cumulative impacts of the proposed action and any alternatives together in a comparative description or describe the impacts of each alternative separately; and

(v) May incorporate by reference data, inventories, other information and analyses.

(4) Agencies and Persons Consulted.

(c) *Public involvement.* In addition to public notice in the SOPA and other requirements specified by applicable statutes or regulations (such as 36 CFR 218), as required at § 220.4(d), the responsible official may choose to conduct additional public engagement activities to involve key stakeholders and interested parties. This additional involvement shall be conducted commensurate with the nature of the decision to be made.

(d) *Decision notice.* If an EA and FONSI have been prepared, the responsible official must document a decision to proceed with an action in a decision notice unless law or regulation requires another form of decision documentation. A decision notice must document the conclusions drawn and the decision(s) made based on the supporting record, including the EA and FONSI. A decision notice must include:

(1) A heading, which identifies the:

(i) Title of document;

(ii) Agency and administrative unit;

(iii) Title of the project; and

(iv) Location of the action, including county and State.

(2) Decision and rationale;

(3) Brief summary of public involvement;

(4) A statement incorporating by reference the EA and FONSI if not combined with the decision notice;

(5) Findings required by other laws and regulations applicable to the decision at the time of decision;

(6) Expected implementation date;

(7) Administrative review opportunities and, when such opportunities exist, a citation to the applicable regulations and directions on when and where to file a request for review;

(8) Contact information, including the name, address, and phone number of a contact person who can supply additional information; and

(9) Responsible Official's signature, and the date the decision notice is signed.

(e) *Notification.* The responsible official shall notify interested and affected parties of the availability of the EA, FONSI, and decision notice as soon as practicable after the decision notice is signed.

**§ 220.7 Environmental impact statement and record of decision.**

(a) *Classes of actions normally requiring environmental impact statements.*

(1) *Class 1.* Proposals to carry out or to approve aerial application of chemical pesticides on an operational basis. Examples include but are not limited to:

(i) Applying chemical insecticides by helicopter on an area infested with spruce budworm to prevent serious resource loss.

(ii) Authorizing the application of herbicides by helicopter on a major utility corridor to control unwanted vegetation.

(iii) Applying herbicides by fixed-wing aircraft on an area to release trees from competing vegetation.

(2) *Class 2.* Development of a new land management plan or land management plan revision as provided for in 36 CFR 219.7.

(3) *Class 3.*Mining operations that involve surface disturbance on greater than 640 acres over the life of the proposed action.

(b) *Public Notice and Scoping.* Scoping shall be carried out in accordance with the requirements of 40 CFR 1501.7. No single scoping

technique is required or prescribed however, while public notice shall be provided by the SOPA, as required at § 220.4(d), the SOPA shall not to be used as the sole scoping mechanism.

(c) *Notice of intent.* Normally, a notice of intent to prepare an EIS shall be published in the **Federal Register** as soon as practicable after deciding that an EIS will be prepared. Where there is a lengthy period between the agency's decision to prepare an EIS and the time of actual preparation, the notice of intent may be published at a reasonable time in advance of preparation of the draft statement. A notice must meet the requirements of 40 CFR 1508.22, and in addition, include the following:

(1) Title of the responsible official(s);

(2) Any permits or licenses required to implement the proposed action and the issuing authority, to the extent known;

(3) Lead, joint lead, or cooperating agencies if identified; and

(4) Address(es) to which comments may be sent.

(d) *Withdrawal notice.* A withdrawal notice must be published in the **Federal Register** if, after publication of the notice of intent or notice of availability, an EIS is no longer necessary. A withdrawal notice must refer to the date and **Federal Register** page number of the previously published notice(s).

(e) *Environmental impact statement format and content.* The responsible official may use any EIS format and design as long as the statement is in accord with 40 CFR 1502.10.

(f) *Alternative(s).* The EIS shall document the examination of reasonable alternatives to the proposed action. Each alternative other than the no action alternative must meet the purpose and need of the proposed action. No specific number of alternatives is required or prescribed. The responsible official may modify the proposed action and alternative(s) under consideration prior to issuing a draft EIS. In such cases, the responsible official may consider the incremental changes as alternatives considered. The documentation of these incremental changes to a proposed action or alternatives shall be included or incorporated by reference in accord with 40 CFR 1502.21.

(g) *Circulating and filing draft and final environmental impact statements.* (1) The draft and final EISs shall be filed with the Environmental Protection Agency's Office of Federal Activities in Washington, DC (*see* 40 CFR 1506.9).

(2) Requirements at 40 CFR 1506.9 ''Filing requirements,'' 40 CFR 1506.10 ''Timing of agency action,'' and 40 CFR 1502.19 ''Circulation of the environmental impact statement'' shall only apply to the last draft and final EIS, and will not apply to material produced prior to the draft EIS or between the draft and final EIS which are filed with EPA.

(3) When the responsible official determines that an extension of the review period on a draft EIS is appropriate, notice shall be given in the same manner used for inviting comments on the draft.

(h) *Distribution of the record of decision.* The responsible official shall notify interested or affected parties of the availability of the record of decision as soon as practicable after signing.

Dated: May 17, 2019.

**James E. Hubbard,**

*Undersecretary, Natural Resources and Environment.*

[FR Doc. 2019–12195 Filed 6–12–19; 8:45 am]

BILLING CODE 3411–15–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R02–OAR–2018–0511; FRL–9994–92–Region 2]**

## Approval of Air Quality Implementation Plans; New York; Infrastructure Requirements for the 2008 Ozone, 2010 Sulfur Dioxide, and 2012 Fine Particulate Matter National Ambient Air Quality Standards

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve certain elements of New York's State Implementation Plan (SIP) revisions, submitted to demonstrate that the State meets the requirements of the Clean Air Act (CAA) for the 2008 Ozone; 2010 Sulfur Dioxide; and 2012 particulate matter of 2.5 microns or less ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). Section 110(a) of the CAA requires that each state adopt and submit for approval into the SIP a plan for the implementation, maintenance and enforcement of each NAAQS promulgated by the EPA.

**DATES:** Comments must be received on or before July 15, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–R02–OAR–2018–0511 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 *http://www2.epa.gov/dockets/commenting-epa-dockets.*

**FOR FURTHER INFORMATION CONTACT:** Edward J. Linky, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3764, or by email at *Linky.Edward@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

I. What action is EPA proposing?
II. What is the background information?
III. What is a section 110(a)(1) and (2) SIP?
IV. What elements are required under section 110(a)(1) and (2)?
V. What is EPA's approach to the review of infrastructure SIP submissions?
VI. What did New York submit?
VII. How has the State addressed the elements of the section 110(a)(1) and (2) ''infrastructure'' provisions?
VIII. What action is EPA taking?
IX. Statutory and Executive Order Reviews

### I. What action is EPA proposing?

The EPA is proposing to approve certain elements of the State of New York Infrastructure State Implementation Plan (SIP) as meeting the section 110(a) infrastructure requirements of the Clean Air Act (CAA) for the following National Ambient Air Quality Standards (NAAQS or standard): 2008 Ozone, 2010 sulfur dioxide ($SO_2$), and 2012 particulate matter of 2.5 microns or less ($PM_{2.5}$). As explained below, the EPA is proposing to find that the State has the necessary infrastructure, resources, and general authority to implement the standards noted above.

### II. What is the background information?

Section 110(a)(1) of the CAA requires states to submit for approval into the SIP a plan that provides for the implementation, maintenance, and enforcement of new or revised NAAQS

within three years following the promulgation of such NAAQS. The EPA commonly refers to such state plans as ''infrastructure SIPs.''

- On March 12, 2008, the EPA promulgated a revised NAAQS for ozone. 73 FR 16436 (March 27, 2008).
- On June 2, 2010), the EPA promulgated a revised primary NAAQS for $SO_2$. 75 FR 35520 (June 22, 2010).
- On December 14, 2012, the EPA promulgated a revised primary NAAQS for $PM_{2.5}$ for the annual standard. 78 FR 3086 (Jan. 15, 2013).

The New York State Department of Environmental Conservation (NYSDEC) submitted the following revisions to its Infrastructure State Implementation Plan (ISIP):

- 2008 Ozone ISIP submitted on April 4, 2013
- 2010 $SO_2$ ISIP submitted on October 3, 2013
- 2012 $PM_{2.5}$ ISIP submitted on November 30, 2016

On August 26, 2016 (81 FR 58849), the EPA published its action on certain elements of NYSDEC's April 4, 2013 SIP submittal pertaining to the 2008 Ozone ISIP. The EPA's action addressed CAA section 110(a)(2)(D)(i)(I) which requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS (commonly referred to as prong 1), or interfering with maintenance of the NAAQS (prong 2), in any other state and CAA section 110(a)(2)(D)(i)(II) which requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required to protect visibility (prong 4). The EPA disapproved 110(a)(2)(D)(i)(I) (prongs 1 and 2) and approved 110(a)(2)(D)(i)(II) (prong 4) for the 2008 Ozone NAAQS. 81 FR 58849, 58855 (August 26, 2016).

The EPA approved portions of New York's infrastructure SIP submittals for the 2008 Ozone and 2010 $SO_2$ NAAQS [1] pertaining to CAA sections 110(a)(2)(C), (D)(i)(II) (prong 3), and (J), including PSD interstate transport provisions.[2] 81 FR 95047 (December 27, 2016).

[1] The approval also included the 2008 Lead NAAQS, which is not a subject of this action.

[2] CAA 110(a)(2)(C) (requires SIPs to include a program to provide for enforcement of emission limitations and other control measures described in CAA 110(a)(2)(A)); CAA 110(a)(2)(D)(i)(II) (which requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state); CAA 110(a)(2)(J) (requirements related to consultation, public notification and PSD and visibility protection).

## III. What is a section 110(a)(1) and (2) SIP?

Section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS.

Sections 110(a)(1) and (2) of the CAA require, in part, that states submit to the EPA plans to implement, maintain and enforce each of the NAAQS promulgated by the EPA. The EPA interprets this provision to require states to address basic SIP requirements including emission inventories, monitoring, and modeling to assure attainment and maintenance of the standards. By statute, SIPs meeting the requirements of section 110(a)(1) and (2) are to be submitted by states within three years after promulgation of a new or revised standard.

## IV. What elements are required under section 110(a)(1) and (2)?

The infrastructure requirements of CAA sections 110(a)(1) and (2), relevant to this action, are discussed in the following EPA guidance documents: EPA's October 2, 2007, memorandum entitled ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards;'' September 25, 2009, memorandum entitled ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards;'' September 13, 2013, memorandum entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2);'' [3] and March 17, 2016, ''Information on Interstate Transport ''Good Neighbor'' provision for the 2012 Fine Particulate Matter (PM) National Ambient Air Quality Standards under Clean Air Act (CAA) Section 110(a)(2)(D)(i)(I).''

The EPA reviews each infrastructure SIP submission with the applicable statutory provisions of CAA 110(a)(2). The 14 elements required to be addressed by CAA section 110(a)(2) are:

- 110(a)(2)(A): Emission limits and other control measures;
- 110(a)(2)(B): Ambient air quality monitoring/data system;
- 110(a)(2)(C): Program for enforcement of control measures and for construction or modification of stationary sources;
- 110(a)(2)(D)(i)(I) and (II): Interstate pollution transport;
- 110(a)(2)(D)(ii): Interstate and international pollution abatement;
- 110(a)(2)(E): Adequate resources and authority, conflict of interest, oversight of local governments and local authorities;
- 110(a)(2)(F): Stationary source monitoring and reporting;
- 110(a)(2)(G): Emergency powers;
- 110(a)(2)(H): Future SIP revisions;
- 110(a)(2)(I): Plan revisions for nonattainment areas (under part D);
- 110(a)(2)(J): Consultation with government officials, public notification, and PSD and visibility protection;
- 110(a)(2)(K): Air quality modeling and data;
- 110(a)(2)(L): Permitting fees;
- 110(a)(2)(M): Consultation/participation by affected local entities.

Two elements identified in section 110(a)(2) are not governed by the 3-year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within 3 years after promulgation of a new or revised NAAQS, but rather due at the time that the nonattainment area plan requirements are due pursuant to section 172 of the CAA. See 77 FR 46354 (August 3, 2012) and 77 FR 60308 (October 3, 2012, footnote 1). These requirements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA, and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. As a result, this action does not address the nonattainment permit program requirements of section 110(a)(2)(C) for 2012 $PM_{2.5}$ or the nonattainment planning requirements related to section 110(a)(2)(I) for the 2008 Ozone, 2010 $SO_2$, or 2012 $PM_{2.5}$.

This action partially addresses Element D (interstate pollution transport, interstate and international pollution abatement). As mentioned in section II, the EPA previously disapproved 110(a)(2)(D)(i)(I) (prongs 1 and 2) and approved 110(a)(2)(D)(i)(II) (prong 4) for the 2008 Ozone NAAQS. 81 FR 58849 (Aug. 26, 2016). The EPA approved 110(a)(2)(D)(i)(II) (prong 3) for the 2008 Ozone and 2010 $SO_2$ NAAQS. 81 FR 95047 (December 27, 2016). This action addresses the remaining element D provisions for 2008 Ozone, 2010 $SO_2$ and 2012 $PM_{2.5}$ NAAQS, except for 110(a)(2)(D)(i)(I) (prongs 1 and 2)

[3] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)'' can be found at: *http://www.epa.gov/airquality/urbanair/sipstatus/infrastructure.html.*

provisions for the 2010 $SO_2$ NAAQS and the 2012 $PM_{2.5}$ NAAQS, which will be addressed in a subsequent action by the EPA. Therefore, with respect to element D, this action addresses:

- 110(a)(2)(D)(i)(II) (prong 3) for the 2012 $PM_{2.5}$ NAAQS; and
- 110(a)(2)(D)(i)(II) (prong 4) for the 2010 $SO_2$ NAAQS and 2012 $PM_{2.5}$ NAAQS
- 110(a)(2)(D)(ii) for 2008 Ozone NAAQS, 2010 $SO_2$ NAAQS and 2012 $PM_{2.5}$ NAAQS

## V. What is EPA's approach to the review of infrastructure SIP submissions?

The discussion of the EPA's approach to the review of infrastructure SIP submissions is detailed in the ''Technical Support Document for the EPA's proposed Rulemaking for the New York State Implementation Plan Revision for Meeting the Infrastructure Requirements in the Clean Air Act'' dated 2019 (TSD). The TSD is available in the electronic docket (EPA–R02–OAR–2018–0511) at *www.regulations.gov.*

Whenever the EPA promulgates a new or revised NAAQS, CAA section 110(a)(1) requires states to make Infrastructure SIP submissions to provide for the implementation, maintenance, and enforcement of the NAAQS. These submissions must meet the various requirements of CAA section 110(a)(2), as applicable. Due to ambiguity in some of the language of CAA section 110(a)(2), the EPA believes that it is appropriate to interpret these provisions in the specific context of acting on infrastructure SIP submissions. The EPA has previously provided comprehensive guidance on the application of these provisions through a guidance document for infrastructure SIP submissions and through regional actions on infrastructure submissions.[4] Unless otherwise noted below, we are following that existing approach in acting on these submissions. In addition, in the context of acting on such infrastructure submissions, the EPA evaluates the submitting state's SIP for facial compliance with statutory and regulatory requirements, not for the state's implementation of its SIP.[5] The EPA has other authority to address issues concerning a state's implementation of its SIP.

## VI. What did New York submit?

NYSDEC submitted the following SIP submittals which address the infrastructure requirements for the identified NAAQS:

- 2008 Ozone ISIP submitted on April 4, 2013
- 2010 $SO_2$ ISIP submitted on October 3, 2013
- 2012 $PM_{2.5}$ ISIP submitted on November 30, 2016

New York's section 110 submittals demonstrate how the State, where applicable, has a plan in place that meets the requirements of section 110 for the 2008 Ozone, 2010 $SO_2$, and 2012 $PM_{2.5}$ NAAQS. The plans reference the current New York Air Quality SIP, the New York Codes, Rules and Regulations (NYCRR), the New York Environmental Conservation Law (ECL) and the New York Public Officer's Law (POL). The NYCRR, ECL and POL referenced in the submittal are publicly available. New York's SIP and air pollution control regulations that have been previously approved by the EPA and incorporated into the New York SIP can be found at 40 CFR 52.1670 and are posted on the internet at *https://www.epa.gov/sips-ny.*

## VII. How has the State addressed the elements of the section 110(a)(1) and (2) ''infrastructure'' provisions?

Infrastructure SIPs for different criteria pollutants can have common aspects which are consistent for each NAAQS (*e.g.,* authority to promulgate emission limitations, enforcement, air quality modeling capabilities, adequate personnel, resources and legal authority). The EPA compared New York's Infrastructure SIP submittals for the 2008 Ozone, 2010 $SO_2$, and 2012 $PM_{2.5}$ NAAQS with New York's Infrastructure SIP submittals for the 1997 8-hour Ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS, on which the EPA took final action approving certain elements and sub-elements. 78 FR 37122 (June 20, 2013). Certain elements of the infrastructure SIP submittals are not pollutant specific. Based upon the EPA's comparison, the EPA is proposing to determine that the information provided in New York's Infrastructure SIP submittal for the 2008 Ozone, 2010 $SO_2$ and the 2012 $PM_{2.5}$ NAAQS for elements E, F, H, K, L, and M is consistent with or identical to the information provided in New York's Infrastructure SIP submittal for the 1997 8-hour ozone, 1997 and 2006 $PM_{2.5}$ NAAQS. The EPA's rationale for approving certain elements of New York's Infrastructure SIP for 2008 Ozone, 2010 $SO_2$, and 2012 $PM_{2.5}$ NAAQS is the same as the rationale for approving those elements of New York's 1997 8-hour ozone and 1997 and 2006 $PM_{2.5}$ Infrastructure SIPs, so the EPA is not repeating this evaluation in today's proposal. Instead, the reader is referred to the EPA's evaluation of the SIP submittals for the 1997 8-hour ozone and 1997 and 2006 $PM_{2.5}$ Infrastructure SIPs detailed in the following documents: (1) Three documents titled ''Technical Support Document for EPA's Proposed Rulemaking for the New York's State Implementation Plan Revision: State Implementation Plan Revision For Meeting the Infrastructure Requirements In the Clean Air Act'' dated December 13, 2007, October 2, 2008 and March 15, 2010; (2) the EPA's rulemaking proposing approval of certain elements of New York's Infrastructure SIP submittal for the 1997 8-hour ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS, 78 FR 25236 (April 30, 2013); (3) the EPA's final rule approving certain elements of New York's Infrastructure SIPs for the 1997 8-hour ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS, 78 FR 37122 (June 20, 2013). These documents are available in the electronic docket for today's proposed action at *www.regulations.gov.* We are, of course, accepting comments on that rationale as it applies to this proposed approval of New York's Infrastructure SIP for the 2008 Ozone, 2010 $SO_2$ and 2012 $PM_{2.5}$ NAAQS.

As discussed in the following sections, the EPA is providing a more detailed analysis of the remaining elements of New York's 2008 Ozone, 2010 $SO_2$, and 2012 $PM_{2.5}$ Infrastructure SIP submittals namely elements A, B, C, D, G, and J.

In summary, the EPA is proposing approval of the following elements and sub-elements of New York's Infrastructure SIP submittal for 2008 Ozone, 2010 $SO_2$, and 2012 $PM_{2.5}$ NAAQS (except as indicated): 110(a)(A) [emission limits and other control measures]; 110(a)(2)(B) [ambient air quality monitoring/data system]; 110(a)(2)(C) [program for enforcement of control measures] for the 2012 $PM_{2.5}$ NAAQS only; 110(a)(2)(D)(i)(II) [interstate transport], Prong 3 for 2012 $PM_{2.5}$ NAAQS, and Prong 4 for the 2010 $SO_2$ NAAQS and the 2012 $PM_{2.5}$ NAAQS; 110(a)(2)(D)(ii) [interstate and international pollution abatement]; 110(a)(2)(E) [adequate resources, state

[4] EPA explains and elaborates on these ambiguities and its approach to address them in its September 13, 2013 Infrastructure SIP Guidance (available at *https://www3.epa.gov/airquality/urbanair/sipstatus/docs/Guidance_on_Infrastructure_SIP_Elements_Multipollutant_FINAL_Sept_2013.pdf*), as well as in numerous agency actions, including EPA's prior action on New York's infrastructure SIP to address the Nitrogen Dioxide NAAQS, 85 FR 25066, 25067 (May 2, 2014).

[5] See U.S. Court of Appeals for the Ninth Circuit decision in *Montana Environmental Information Center* v. *Thomas, 902 F.3d 971* (Aug. 30, 2018).

boards/conflict of interest, oversight of local governments and local authorities]; 110(a)(2)(F) [stationary source monitoring]; 110(a)(2)(G) [emergency power]; 110(a)(2)(H) [future SIP revisions]; 110(a)(2)(J) [consultation with government official, public notification, and PSD for the 2012 $PM_{2.5}$ NAAQS only]; 110(a)(2)(K) [air quality and modeling/data]; 110(a)(2)(L) [permitting fees]; and 110(a)(2)(M) [consultation/participation by affected local entities].

The EPA is not acting on New York's submittal for 2012 $PM_{2.5}$ as it relates to nonattainment provisions, including the nonattainment NSR program required by part D, in section 110(a)(2)(C) and is not acting on New York's submittals for 2008 Ozone, 2010 $SO_2$ and 2012 $PM_{2.5}$ as they relate to the measures for attainment required by section 110(a)(2)(I) because the State's Infrastructure SIP submittals do not include nonattainment requirements and the EPA will act on them when and if necessary. The EPA is also not acting on the visibility protection portion of element J for the 2012 $PM_{2.5}$ submittal.

*Element A: Emission Limits and Other Control Measures:* Section 110(a)(2)(A) requires SIPs to include enforceable emission limits and other control measures, measures, means, or techniques, and schedules for compliance. In each of the submittals, New York identifies provisions of its federally enforceable SIP that contain enforceable emission limits and other control measures. The EPA is proposing to determine that New York has met the requirements of 110(a)(2)(A) of the CAA with respect to the 2008 Ozone, 2010 $SO_2$ and 2012 $PM_{2.5}$ NAAQS.

*Element B: Ambient air quality monitoring/data system:* Section 110(a)(2)(B) requires SIPs to include provisions to provide for establishment and operation of ambient air quality monitors, to monitor, compile and analyze ambient air quality data, and to make these data available to EPA upon request. NYSDEC submittal for the 2012 $PM_{2.5}$ NAAQS details the State's authority to adopt and enforce provisions of the SIP. The EPA proposes to find that these provisions demonstrate that NYSDEC has the requisite authority to support element B. NYSDEC states that it will continue to operate an air quality monitoring network that complies with the EPA requirements and will submit this data to the EPA's Air Quality System (AQS). NYSDEC's submittals state that they measure air pollutants at more than 50 sites across the State using continuous and/or manual instrumentation, in accordance with 40 CFR part 53 and 58. These sites are part of the federally-mandated National Cores Sites (NCORE) and the State and Local Air Monitoring Stations (SLAMS) network. Near real time direct reading measurements include gaseous criteria pollutants (ozone, $SO_2$, $NO_X$ and carbon monoxide, $PM_{2.5}$ and meteorological data). Filter based $PM_{2.5}$ samples are collected and shipped to a laboratory for analysis. In January 2017, in accord with the Data Requirements Rule for the 2010 $SO_2$ standard,[6] NYSDEC established four monitors near two large sources, one in St. Lawrence County (Alcoa Massena Aluminum Plant) and the other in Tompkins County (Cayuga Power Plant) to characterize $SO_2$ air quality in the area.

NYSDEC prepares an Annual Monitoring Network Plan that describes in detail the specifics of the monitoring network as required by 40 CFR 58.10. The EPA is therefore proposing that New York has met the requirements of section 110(a)(2)(B) of the CAA with respect to the 2008 Ozone, 2010 $SO_2$ [7] and 2012 $PM_{2.5}$ NAAQS.

*Element C: Program for enforcement of control measures and for construction or modification of stationary sources:* Section 110(a)(2)(C) requires states to have a plan that includes a program providing for enforcement of all SIP measures and the regulation of the modification and construction of any stationary source, including a program to meet Prevention of Significant Deterioration (PSD) of Air Quality and minor source new source review. This element is being evaluated for the 2012 $PM_{2.5}$ NAAQS only.

**Enforcement of SIP Measures**

New York's $PM_{2.5}$ infrastructure SIP submittal explains that its SIP is a compilation of rules and regulations that have been duly promulgated by NYSDEC in accordance with its statutory authority and consistent with the New York State Administrative Procedures Act. New York cites Environmental Conservation Law (ECL) section 19–0305, which authorizes the Commissioner to enforce NYSDEC codes, rules and regulations established in accordance with ECL Articles 19 and 71. This includes all control measures that have been adopted into the SIP. New York states that its authority for enforcement of emission limits and control measures is provided for in ''Enforcement of Article 19 and Air Pollution Emergency Rules and Regulations.'' ECL Article 71, Title 21. New York also identifies the enforcement provisions included in 6 NYCRR Part 201, specifically 201–1.13 which gives NYSDEC access to regulated facilities in order to determine compliance.

*Regulation of Minor Sources and Minor Modifications*

New York states that it permits minor sources of air pollution through 6 NYCRR Subparts 201–4, ''Minor Facility Registration'' and 201–5, ''State Facility Permits'' and applicable State and Federal regulations.

*PSD Permitting of Major Sources*

New York references the State's PSD and Nonattainment New Source Review (NNSR) permitting program contained in 6 NYCRR Part 231, ''New Source Review for New and Modified Facilities'' and the State's permitting program contained in 6 NYCRR 201, ''Permits and Registrations.'' The EPA approved New York's PSD and NNSR program into the SIP on November 17, 2010 (75 FR 70140). New York adopted revisions to Part 231 and 201 to implement $PM_{2.5}$ provisions that were not included in the earlier rule and submitted them to the EPA on October 12, 2011. The EPA approved the SIP revision on December 27, 2016 (81 FR 95047).

The EPA is proposing to approve New York's Infrastructure SIP for the 2012 $PM_{2.5}$ NAAQS with respect to the program for enforcement of control measures requirements of element C. The EPA proposes to find that the State has adequate authority and regulations to ensure that SIP-approved control measures are enforced. The EPA is proposing to find that New York meets the requirement to have a SIP approved minor new source review program. The EPA also finds that, based on the approval of New York's PSD program, New York has the authority to regulate the construction of new or modified stationary sources to meet the PSD program requirements.

As discussed in Section IV, the EPA is not addressing the nonattainment permit program requirements of section 110(a)(2)(C) for 2012 $PM_{2.5}$ NAAQS.

The EPA proposes to determine that New York has met the requirements of section 110(a)(2)(C) of the CAA with respect to the 2012 $PM_{2.5}$ NAAQS.

*Element D: Interstate transport:* Section 110(a)(2)(D) of the CAA is divided into two subsections, 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). The first of these, 110(a)(2)(D)(i), in turn, contains four ''prongs'' the first two of

[6] August 21, 2015 (80 FR 50152).

[7] EPA notes that designations for the 2010 $SO_2$ standards were finalized in three rounds on July 25, 2013 (78 FR 47191), August 5, 2013 (78 FR 47191), July 12, 2016 (81 FR 45039), December 13, 2016 (81 FR 89870), and January 9, 2018 (83 FR 1098).

which appear in 110(a)(2)(D)(i)(I) and the second two of which appear in 110(a)(2)(D)(i)(II). The two prongs in 110(a)(2)(D)(i)(I) prohibit any source or other type of emissions activity within the State from emitting any air pollutants in amounts which will contribute significantly to nonattainment in any other state with respect to any primary or secondary NAAQS (prong 1), or interfere with maintenance by any other state with respect to any primary or secondary NAAQS (prong 2). Section 110(a)(2)(D)(i)(I) is not being reviewed in this action. Section 110(a)(2)(D)(i)(II) prohibits any source or other type of emissions activity within the State from emitting any air pollutants in amounts which will interfere with measures required to be included in the applicable implementation plan for any other state under part C to prevent significant deterioration of air quality (prong 3) or to protect visibility (prong 4). Subsection 110(a)(2)(D)(ii) addresses interstate and international pollution abatement and requires SIPs to include provisions insuring compliance with sections 115 and 126 of the CAA, relating to interstate and international pollution abatement.

The EPA acted on portions of 110(a)(2)(D)(i)(I) and (II) with respect to 2008 Ozone and 2010 $SO_2$ NAAQS. The EPA disapproved the portion of the 2008 Ozone infrastructure SIP submittal addressing CAA section 110(a)(2)(D)(i)(I), concerning nonattainment of the NAAQS (prong 1), and interfering with maintenance of the NAAQS (prong 2) and approved the portion of the 2008 Ozone infrastructure SIP submittal addressing CAA section 110(a)(2)(D)(i)(II) concerning visibility (prong 4).[8] With respect to the requirements of 110(a)(2)(D)(i)(II) (prong 3), the EPA previously approved[9] this portion of New York's SIP submissions for 2008 Ozone and 2010 $SO_2$ NAAQS. New York's SIP submissions that address section 110(a)(2)(D)(i)(I) [prongs 1 and 2] for 2010 $SO_2$ NAAQS, and 2012 $PM_{2.5}$ NAAQS are currently being reviewed by the EPA, and the Agency will take action at a later date. Our evaluation of New York's submittals is limited to assessing whether New York's submittals meet the requirements of 110(a)(2)(D) under review in this proposal.

For the 2012 $PM_{2.5}$ NAAQS, the EPA is proposing that New York satisfies the 110(a)(2)(D)(i)(II) requirement for prong 3. New York relies on its PSD program to prevent significant deterioration of air quality within the state and in other nearby states. New York's SIP approved 6 NYCRR Part 231 includes both PSD permitting requirements, which regulate major sources in attainment areas, and Nonattainment New Source Review requirements, which regulate major sources in nonattainment areas. New York has affirmed that the program remains in effect and applies to $PM_{2.5}$. New York adopted revisions to Part 231, which included provisions to implement PSD/Nonattainment New Source Review requirements for $PM_{2.5}$ and submitted them to EPA in October 12, 2011. The EPA approved these State revisions to Part 231 in the December 27, 2016 **Federal Register** issue.

The EPA is proposing that New York satisfies the 110(a)(2)(D)(i)(II) requirement for visibility (prong 4). New York addresses visibility protection requirements for both the 2010 $SO_2$ and 2012 $PM_{2.5}$ NAAQS through its EPA-approved Regional Haze SIP.[10] The EPA's regional haze rule requires that a state participating in a regional planning process include all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process.[11] The regional haze rule also requires the state to submit periodic reports describing progress towards reasonable progress goals established for regional haze and the adequacy of the state's regional haze SIP. Thus, New York's approved Regional Haze SIP and approved reasonable progress plan ensure that emissions from sources within the State are not interfering with measures to protect visibility in other states.

The EPA notes that New York's Regional Haze SIP was supplemented with a Federal Implementation Plan (FIP) to address two sources, Danskammer Generating Station, Unit No. 4 (Danskammer) and Roseton Generating Station, Units 1 and 2 (Roseton), where the Agency disapproved New York's BART determinations. Following the EPA's action on New York's Regional Haze Plan, the Title V permits for Danskammer and Roseton were updated by New York to incorporate the FIP limits established by the EPA. The Title V permits for Danskammer and Roseton were submitted to the EPA as SIP revisions on August 20, 2015, and April 18, 2017, respectively. The EPA published the SIP approval for Danskammer on December 4, 2017 (82 FR 57126) and the SIP approval for Roseton on February 16, 2018 (83 FR 6970).

Regarding section 110(a)(2)(D)(ii), which relates to interstate and international pollution abatement, the EPA is proposing to approve New York's submissions for infrastructure element 110(a)(2)(D)(ii) for the 2008 Ozone, 2012 $PM_{2.5}$ and the 2010 $SO_2$ NAAQS. New York's SIP-approved PSD program is consistent with 40 CFR 51.166(q)(2)(iv) and requires a source to notify air agencies whose lands may be affected by emissions from that source. (See 78 FR 25236, 25239; 6 NYCRR 231–7.4(f) and 8.5(f)). New York has no pending obligations under section 115 or 126 of the CAA.

*Element E: Adequate Resources:* Section 110(a)(2)(E) requires each state to provide necessary assurances that the state will (i) have adequate personnel, funding, and authority under state law to carry out the SIP (and is not prohibited by any provision of federal or state law from carrying out the SIP or portion thereof), (ii) will comply with the requirements respecting state boards under CAA section 128, and (iii) where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any SIP provision, the state has responsibility for ensuring adequate implementation of such SIP provision. This element of the submittals is common to New York infrastructure submittals that the EPA has previously approved and, therefore, as discussed in Section VII, the EPA is not repeating the rationale for approving this element of the submittals. See 78 FR 37122 (June 20, 2013). The EPA proposes to approve the submittals for the 2012 $PM_{2.5}$, 2008 Ozone, and 2010 $SO_2$ NAAQS.

*Element F: Stationary Source Monitoring and Reporting:* Section 110(a)(2)(F) requires states to establish a system to monitor emissions from stationary sources and to submit periodic emission reports. This element of the submittals is common to New York infrastructure submittals that the EPA has previously approved and, as discussed in Section VII, EPA, therefore, is not repeating the rationale for proposing to approve this element of the submittals. New York's submittal for the 2012 NAAQS $PM_{2.5}$ NAAQS provides more detailed information regarding their authority for stationary source monitoring and reporting in further support of the EPA's proposed approval of this element.

*Element G: Emergency power:* Section 110(a)(2)(G) requires states to provide for emergency authority to address activities causing imminent and substantial endangerment to public health and requires states to submit adequate contingency plans to

[8] August 26, 2016 (81 FR 58849).

[9] December 27, 2016 (81 FR 95047).

[10] August 28, 2012 (77 FR 51915).

[11] 40 CFR part 51, subpart P.

implement the emergency episode provisions in their SIPs.

The EPA requires that Infrastructure SIP submittals should meet the applicable contingency plan requirements of 40 CFR part 51, subpart H (40 CFR 51.150 through 51.153) (''Prevention of Air Pollution Emergency Episodes''). Subpart H requires states that have air quality control regions identified as either Priority I, Priority IA or Priority II to develop emergency episode contingency plans.

Articles 3 and 19 of the ECL provide New York State with the authority to address air pollution emergencies. ECL section 3–0301, entitled ''General functions power and duties of the DEC and the commissioner,'' authorizes NYSDEC to prevent and control air pollution emergencies as defined in ECL section 1–0303. ECL articles 3 and 19 are implemented through 6 NYCRR part 207, ''Control Measures for Air Pollution Episodes'' which the EPA approved as part of the New York SIP. See 46 FR 55690 (November 12, 1981).

The EPA also notes that the NYSDEC maintains Air Pollution Episode Procedures (APEPs) also called Alert Criteria (updated December 2018 at *http://www.dec.ny.gov/chemical/60440.html*). In October 2009, NYSDEC completed a comprehensive revision of the APEPs to address updated $PM_{2.5}$ significant harm levels (SHLs) along with revised values for ozone episodes. This revision involved updating contact information for the Bureaus of Air Quality Assurance, Stationary Sources, and Air Quality Surveillance, and the Impact Assessment and Meteorology Section. Local level emergency contacts were also updated. NYSDEC's APEPs include air pollution episode criteria for $PM_{2.5}$, coarse $PM_{10}$, ozone, carbon monoxide, $SO_2$ and nitrogen dioxide, based on SHLs established by the EPA.

The EPA proposes that New York has met the requirements of section 110(a)(2)(G) for the 2008 Ozone, 2010 $SO_2$ and 2012 $PM_{2.5}$ NAAQS.

*Element H: Future SIP Revisions:* Section 110(a)(2)(H) requires states to have authority to revise their SIPs in response to changes in the NAAQS or availability of improved methods for attaining the NAAQS and whenever the EPA finds that the SIP is substantially inadequate. This element of the submittals is common to New York infrastructure submittals that the EPA has previously approved and, as discussed in Section VII, the EPA is not repeating the rationale for proposing to approve this element of the submittals.

*Element I: Plan Revisions for Nonattainment Areas (under part D):* Section 110(a)(2)(I) requires that each plan or plan revision for an area designated as a nonattainment area meet the applicable requirements of part D of the CAA. Part D relates to nonattainment areas. The EPA has determined that CAA 110(a)(2)(D)(I) (Element I) is not applicable to the infrastructure SIP process. The EPA takes action on part D nonattainment plans through a separate process.

*Element J: Section 110(a)(2)(J): Consultation with Government Officials, Public Notification, and PSD and Visibility Protection:* As mentioned above, the EPA previously approved portions of New York's infrastructure SIP submittals for the 2008 Ozone and 2010 $SO_2$ NAAQS [12] pertaining to CAA sections 110(a)(2)(J). See 81 FR 95047 (December 27, 2016). Therefore, this proposal only pertains to the EPA's review of element J as it applies to 2012 $PM_{2.5}$ NAAQS.

*Consultation With Government Officials*

The CAA Section 110(a)(2)(J) requires states to meet the applicable requirements of CAA 121 relating to consultation. CAA Section 121 requires states to provide a satisfactory process of consultation with general purpose local governments, designated organizations of elected officials of local governments, Tribal Nations, Federal Land Managers (FLMs) and Regional Organizations.

NYSDEC has participated in the consultation process of the Regional Haze SIP (40 CFR 51.308) with the FLMs, states, and Tribal Nations of the Mid Atlantic/Northeast Visibility Union (MANE/VU) and other regional planning organizations where emissions from New York State are reasonably anticipated to contribute to visibility in Class 1 Areas.

NYSDEC's Regional Haze SIP was submitted to the EPA on March 15, 2010. In a **Federal Register** notice dated August 28, 2012 (77 FR 51915), the EPA issued a final rule, effective September 27, 2012, partially approving the New York State Regional Haze SIP and promulgated a Federal Implementation Plan (FIP) to address two sources (Danskammer Generation Station Unit No. 4 and Roseton Generation Station).

On December 4, 2017 (82 FR 57126) the EPA approved a source specific revision to the New York State SIP that established BART emissions limits for the Danskammer Generation Station Unit No. 4 that are identical to the emission limits established by the EPA's FIP for Danskammer Unit No. 4. In conjunction with this SIP approval the EPA withdrew those portions of the FIP that address BART for Danskammer Unit No. 4. (82 FR 57126, December 4, 2012).

On February 16, 2018 (83 FR 6970), the EPA approved a source specific SIP revision for Roseton Generation Station Units 1 and 2. This SIP revision established BART emissions limits for the Roseton Generation Station Units 1 and 2 that are identical to those established by the FIP. The EPA's February 16, 2018 final rule for Roseton Units 1 and 2 withdrew the FIP that addressed BART for these two units.

On December 22, 2005, NYSDEC established a SIP Coordinating Council consisting of senior policy representatives from 19 state agencies and authorities, and a SIP Task Force consisting of officials from 37 local governments and designated organizations of elected officials. The SIP Coordinating Council provides a means to keep state agencies and local governments informed of planned SIP activities and deadlines, and also provides a forum for discussion of SIP requirements and implications, such as effects on transportation planning. The SIP Task Force provides a means of facilitating local involvement at the MPO and county level. Periodic meetings of both groups were held during the ozone and $PM_{2.5}$ SIP development period for the 1997 NAAQS and continue as necessary to address nonattainment of the $PM_{2.5}$ NAAQS and other revised standards.

The EPA proposes to find that New York has met the requirements of CAA 110(a)(2)(J) for consultation with government officials.

*Public Notification*

CAA section 110(a)(2)(J) also requires state plans to meet the public notification requirements of CAA 127: To notify the public if NAAQS are exceeded in an area, advise the public of health hazards associated with exceedances, and enhance public awareness of measures that can be taken to prevent exceedances and of ways in which the public can participate in regulatory and other efforts to improve air quality.

All ambient air concentrations captured by the State's $PM_{2.5}$ monitoring network are submitted to the Air Quality System for public access. Municipalities have emergency response plans recommended by the New York State Office of Emergency Management and the Federal Emergency Management Agency that provide for public information and notification in the case of large-scale emergencies.

[12] The approval also included the 2008 Lead NAAQS, which is not a subject of this action.

The NYSDEC's website at *http://www.dec.ny.gov/chemical/34985.html* contains an Air Quality Index (AQI) for reporting daily air quality to the public. It describes how clean or polluted the air is and what associated health effects might be a concern. When levels of ozone and/or fine particles exceed an AQI of 100, an Air Quality Health Advisory is issued alerting sensitive groups to take necessary precautions. The NYSDEC in cooperation with the New York State Department of Health posts warnings on the above referenced website and issues press releases to local media outlets if dangerous conditions are expected to occur. The Air Quality Index displays the predicted AQI value for eight regions in New York State. It also displays the observed values for the previous day. Air Quality measurements from New York's continuous monitoring network are updated hourly where available. Parameters monitored include ozone, fine particulate, carbon monoxide, sulfur dioxide, nitrogen oxides, methane/hydrocarbons and meteorological data.

Emissions of $PM_{2.5}$ come from mobile sources, stationary sources, aviation sources, wildfires and fires prescribed and open burning and woodstoves. Control measure includes public education on proper burning and consumer recycling and disposal of waste in landfills. Programs to replace outdated stoves, low sulfur fuel, diesel engine retrofits and idling of mobile sources are also included as part of the public awareness program.

The public is afforded the opportunity to participate in the regulatory process by submitting written comments on each major SIP revision and petitioning for a public hearing on such revisions.

The EPA proposes to find that New York has met the requirements of CAA 110(a)(2)(J) for public notification.

*Prevention of Significant Deterioration*

New York has a SIP approved PSD/NSR program that covers all criteria pollutants including $PM_{2.5}$. 6 NYCRR Part 231 ''New Source Review for New and Modified Facilities'' was approved by the EPA on November 17, 2010 (75 FR 70142). 6 NYCRR Part 231 regulates major sources under NSR (when the source is located in a nonattainment area) and PSD (when the source is located in an attainment area). NYSDEC adopted a revision to 6 NYCRR Part 231 to implement $PM_{2.5}$ provisions in 2011. These revisions were submitted to the EPA for inclusion in the SIP on October 12, 2011. The EPA approved the State's revision to Part 231 in a December 27, 2016 action (81 FR 95047).

The EPA proposes to approve New York's infrastructure SIP with respect to the requirements of the PSD sub-element of CAA 110(a)(2)(J).

*Visibility Protection*

Visibility Protection and regional haze program requirements under Section 169A and B of Part C are being met by NYSDEC through separate efforts. In the event of the establishment of a new NAAQS, the visibility and regional haze program requirements under Part C do not change. As noted in the EPA's 2013 guidance, we find that there is not new visibility obligation triggered under Section 110(a)(2)(J) when a new NAAQS becomes effective. There are thus no new applicable visibility protection obligations under Section 110(a)(2)(J) resulting from 2012 $PM_{2.5}$ NAAQS revision and the EPA, therefore, is not acting on the visibility aspect of Element J.

*Element K: Air Quality Modeling/Data:* Section 110(a)(2)(K) requires that SIPs provide for air quality modeling for predicting effects on air quality of emissions from any NAAQS pollutant and submission of such data to EPA upon request. This element of the submittals is common to New York infrastructure submittals that the EPA has previously approved and, as discussed in Section VII, the EPA is not repeating the rationale for proposing to approve this element of the submittals.[13] The reader is referred to the EPA's analysis evaluation of the SIP submittals identified in Section VII.

*Element L: Permitting Fees:* Section 110(a)(2)(L) requires SIPs to mandate that each major stationary source pay permitting fees to cover the cost of reviewing, approving, implementing and enforcing a permit, until such time as the SIP fee requirement is superseded by the EPA's approval of the state's operating permit program. This element of the submittals is common to New York infrastructure submittals that the EPA has previously approved and, as discussed in Section VII, the EPA is not repeating the rationale for proposing to approve this element of the submittals.

*Element M: Consultation/Participation by Affected Local Entities:* Section 110(a)(2)(M) requires states to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP. This element of the submittals is common to New York infrastructure submittals that the EPA has previously approved and therefore the EPA is not repeating the rationale for proposing to approve this element of the submittals. The EPA notes that the submittals provide more detailed information regarding NYSDEC's authority to provide for consultation and participation in SIP development, in further support of the EPA's proposed approval of this element. The submittals identify the SIP Task Force, consisting of officials from 37 local governments and designated organizations of elected officials, as allowing for consultation by local political subdivisions affected by the SIP and the submittals for the 2010 $SO_2$ NAAQS and 2008 Ozone NAAQS also cite the Inter-agency Consultation Group, established pursuant to 6 NYCRR Part 240, and the State Environmental Quality Review process, 6 NYCRR Part 617.

## VIII. What action is the EPA taking?

The EPA is proposing to approve New York's submittals as meeting the infrastructure requirements for the 2008 Ozone, 2010 $SO_2$ and 2012 $PM_{2.5}$ NAAQS for all section 110(a)(2) elements and sub-elements, as follows: (A), (B), (C) [enforcement measures and PSD program for major sources for 2012 $PM_{2.5}$ only], (D)(i)(II) prong 3 [for 2012 $PM_{2.5}$ only], (D)(i)(II) prong 4 [for 2010 $SO_2$ and 2012 $PM_{2.5}$ only], D(ii), (E), (F), (G), (H), (J) [for consultation, public notification and prevention of significant deterioration 2012 $PM_{2.5}$ only], (K), (L) and (M).

The EPA is not acting on New York's submittal for 2012 $PM_{2.5}$ as it relates to nonattainment provisions, the NSR program required by part D, in section 110(a)(2)(C) and is not acting on New York's submittals for 2008 Ozone, 2010 $SO_2$ and 2012 $PM_{2.5}$ NAAQS as they relate to the measures for attainment required by section 110(a)(2)(I), as part of this proposed approval because the State's infrastructure SIP submittals do not include nonattainment requirements and the EPA will act on them when, if necessary, they are submitted.

The EPA is also not acting on 110(a)(2)(D)(i)(I) provisions (prongs 1 and 2) for the 2010 $SO_2$ NAAQS and the 2012 $PM_{2.5}$ NAAQS, which will be addressed in a subsequent action by the EPA.

The EPA is soliciting public comments on the issues discussed in this proposal. These comments will be considered before the EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional Office listed in the **ADDRESSES** section of this **Federal Register**, or by submitting

[13] Due to State revisions to 6 NYCRR 201–6, section 201–6.5(a)(7) in the EPA-approved NY Title V program is now numbered in the State's regulation as 6 NYCRR 201–6.4(a)(7).

comments electronically, by mail, or through hand delivery or courier following the directions in the **ADDRESSES** section of this **Federal Register**.

## IX. Statutory and Executive Order Reviews

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

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

This proposed rulemaking pertaining to New York's section 110(a)(2) infrastructure requirements for the 2008 Ozone NAAQS, 2012 $PM_{2.5}$ NAAQS, and 2010 $SO_2$ NAAQS 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 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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: May 28, 2019.

**Peter D. Lopez,**

*Regional Administrator, Region 2.*

[FR Doc. 2019–12181 Filed 6–12–19; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Parts 52 and 81

**[EPA–R9–OAR–2018–0821 FRL–9995–11–Region 9]**

## Determination of Attainment by the Attainment Date for the 2008 Ozone National Ambient Air Quality Standards; Phoenix-Mesa, Arizona

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to determine that the Phoenix-Mesa ozone nonattainment area (''Phoenix NAA''), which is classified as ''Moderate'' for the 2008 ozone National Ambient Air Quality Standards (NAAQS or ''standards''), attained the NAAQS by its Moderate area attainment date of July 20, 2018. This determination is based on complete, quality-assured, and certified data for 2015–2017. This proposed action is necessary to fulfill the EPA's statutory obligation to determine whether ozone nonattainment areas attained the NAAQS by the attainment date.

**DATES:** Any comments must arrive by July 15, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2018–0821 at *https://www.regulations.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*. 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, 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 *https://www.epa.gov/dockets/commenting-epa-dockets.*

**FOR FURTHER INFORMATION CONTACT:** Nancy Levin, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. By phone: (415) 972–3848 or by email at *levin.nancy@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document, ''we,'' ''us,'' and ''our'' refer to the EPA.

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## I. What is the background for this action?

### *A. Ozone NAAQS, Area Designations, and Classifications*

The Clean Air Act (CAA or ''Act'') requires the EPA to establish national primary and secondary standards for certain widespread pollutants, such as ozone, which cause or contribute to air pollution that is reasonably anticipated to endanger public health or welfare.[1] In

[1] CAA sections 108 and 109. Primary standards represent ambient air quality standards the attainment and maintenance of which the EPA has determined, including a margin of safety, are

the 1970s, the EPA promulgated primary and secondary ozone standards based on a 1-hour average. In 1997, we replaced the 1-hour ozone standards with primary and secondary 8-hour ozone standards. In 2008, we revised the 8-hour ozone standards to the level of 0.075 parts per million (ppm), daily maximum 8-hour average.[2] Since the primary and secondary ozone standards are the same, we refer to them hereafter in this document using the singular ''2008 ozone standard'' (or simply ''standard'') or NAAQS. The 2008 ozone standard is met at an ambient air quality monitoring site when the design value is less than or equal to 0.075 ppm, as determined in accordance with 40 CFR part 50, appendix P.[3] The design value is a statistic that describes the air quality status of a given location relative to the level of the NAAQS. For the purpose of comparison with the 2008 ozone standard, the design value for a site is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations.

The EPA designated NAAs for the 2008 ozone standard on May 21, 2012, effective July 20, 2012.[4] In that action, the EPA classified (by operation of law) the Phoenix NAA as ''Marginal'' nonattainment. The original attainment date for the 2008 ozone standard for this Marginal ozone NAA was as expeditious as practicable but not later than July 20, 2015.[5]

Section 181(b)(2)(A) of the CAA requires that within 6 months following the applicable attainment date, the EPA must determine whether an ozone NAA attained the ozone standard based on the area's design value as of that date. In May 2016, the EPA determined that the Phoenix NAA failed to attain the 2008 ozone standard by the applicable attainment date of July 20, 2015, and reclassified the area to the next higher classification, *i.e.,* ''Moderate.'' Our determination was based on complete, quality-assured, and certified data for 2012–2014.[6] States with Moderate ozone areas are required to submit revisions to the applicable state implementation plan (SIP) that comply with the requirements set forth in subpart 2 of part D of title I of the CAA and in the EPA's ozone implementation rule for the 2008 ozone NAAQS in 40 CFR part 51, subpart AA. The relevant SIP requirements include, among other requirements, attainment demonstrations and associated reasonably available control measures, reasonable further progress (RFP) plans, and contingency measures for failure to attain or make RFP. The applicable attainment date for areas classified as Moderate nonattainment for the 2008 ozone NAAQS is as expeditious as practicable but not later than July 20, 2018.[7] Because the design value is based on the three most recent, complete calendar years of data, attainment must occur no later than December 31 of the year prior to the attainment date (*i.e.,* December 31, 2017, in the case of Moderate NAAs for the 2008 ozone NAAQS).

*B. Ambient Air Quality Monitoring Data*

A determination of whether an area's air quality meets the 2008 ozone NAAQS is generally based upon three consecutive calendar years of complete, quality-assured data measured at established State and Local Air Monitoring Stations (SLAMS) in the NAA and entered into the EPA Air Quality System (AQS) database. Data from ambient air monitoring sites operated by state or local agencies in compliance with EPA monitoring requirements must be submitted to AQS. Heads of monitoring agencies annually certify that these data are accurate to the best of their knowledge. Accordingly, the EPA relies primarily on data in AQS when determining the attainment status of an area.[8] All ozone data are reviewed to determine the area's air quality status in accordance with 40 CFR part 50, appendix P.

When the design value is less than or equal to 0.075 ppm (based on the rounding convention in 40 CFR part 50, appendix P) at each monitoring site within the area, then the area is meeting the 2008 ozone NAAQS. To make the determination that an area attains the NAAQS, each monitor must have a valid design value[9] meeting the standard.

## II. What is the EPA's analysis of the relevant air quality data?

*A. Monitoring Network and Data Considerations*

The Arizona Department of Environmental Quality (ADEQ or ''State''), Maricopa County Air Quality Department (MCAQD), Pinal County Air Quality Control District (PCAQCD), and Salt River Pima-Maricopa Indian Community (SRPMIC) operate a combined 24 ozone SLAMS in the Phoenix NAA (see Table 1 for AQS identification number, site name, design value, and completeness data for 2015–2017 (*i.e.,* the design value period)). MCAQD operates 18 of these ozone sites in the Phoenix NAA, however one of these sites (AQS# 040139706, Rio Verde) was approved by the EPA for closure in 2017.[10] [11] ADEQ operates one ozone site in the Phoenix NAA (JLG Supersite). PCAQCD operates one ozone site in the Phoenix NAA (AJ Maintenance Yard). SRPMIC operates four ozone sites in the Phoenix NAA (Senior Center, Red Mountain, Lehi, and High School).

State and local air monitoring agencies are required to submit annual monitoring network plans to the EPA.[12] Tribal monitoring agencies may also submit such plans. An annual monitoring network plan discusses the status of the air monitoring network, as required under 40 CFR 58.10. MCAQD, PCAQCD, ADEQ and SRPMIC submit annual monitoring network plans for ozone SLAMS in the Phoenix NAA. Since 2007, the EPA has regularly reviewed these annual monitoring network plans for compliance with the applicable requirements in 40 CFR part 58. With respect to ozone, the EPA has found that the area's annual monitoring network plans for 2015 through 2017 meet the applicable requirements under 40 CFR part 58.[13] [14] [15] [16] Furthermore,

requisite to protect the public health. Secondary standards represent ambient air quality standards the attainment and maintenance of which the EPA has determined are requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. CAA section 109(b).

[2] 73 FR 16436 (March 27, 2008); 40 CFR 50.15. In 2015, we tightened the ozone National Ambient Air Quality Standards (NAAQS or ''standards'') even further and established 0.070 parts per million (ppm), 8-hour average, as the new ozone NAAQS. 80 FR 65292 (October 26, 2015). While the 1979 1-hour ozone NAAQS and 1997 8-hour ozone NAAQS have been revoked, the 2008 ozone NAAQS remains in effect.

[3] 40 CFR 50.15.

[4] 77 FR 30088.

[5] 40 CFR 51.1103(a).

[6] 81 FR 26697 (May 4, 2016). The 2012–2014 design value for the Phoenix NAA was 0.080 parts per million, which exceeded the 2008 ozone NAAQS of 0.075 ppm. We note that today's action is based on the 2015–2017 design value.

[7] 40 CFR 51.1103.

[8] 40 CFR 50.15; 40 CFR part 50, appendix P; 40 CFR part 53; 40 CFR part 58, appendices A, C, D and E.

[9] Design values attaining the 2008 ozone NAAQS also must meet minimum data completeness requirements specified in 40 CFR part 50, appendix P to be considered valid.

[10] Blue Point-Sheriff Station-Tonto NF-Salt River Rec. Area, Buckeye, Cave Creek, Central Phoenix, Dysart, Falcon Field, Fountain Hills, Glendale, Humboldt Mountain, Mesa, North Phoenix, Pinnacle Peak, Rio Verde, South Phoenix, South Scottsdale, Tempe, West Chandler, West Phoenix.

[11] Letter from Elizabeth J. Adams, Acting Director, Air Division, EPA Region IX, to Ben Davis, Director, Air Monitoring Manager, Maricopa County Air Quality Department (MCAQD), dated September 15, 2017, approving MCAQD's closure of the Rio Verde ozone SLAMS site.

[12] 40 CFR 58.10(a)(1).

[13] Letter from Gwen Yoshimura, Acting Manager, Air Quality Analysis Office, EPA Region IX, to

Continued

the EPA concluded from its Technical Systems Audits (TSAs) of ADEQ, MCAQD, and PCAQCD, that the combined ambient air monitoring network currently meets or exceeds the requirements for the minimum number of SLAMS in the Phoenix NAA for the 2008 ozone standard.[17] [18] [19] The EPA also conducted a TSA of SRPMIC, but, as a tribal agency, minimum monitoring requirements do not apply to SRPMIC.[20]

MCAQD, PCAQCD, ADEQ and SRPMIC oversee the quality assurance of data collected from their sites and annually certify that their respective data submitted to AQS are complete and quality-assured, and have done so for each year relevant to our determination of attainment, 2015–2017.[21] [22] [23] [24]

Lastly, consistent with the requirements contained in 40 CFR part 50, the EPA has reviewed the quality-assured and certified ozone ambient air monitoring data for completeness. The EPA reviewed the data as recorded in AQS for the applicable monitoring period, collected at the monitoring sites in the Phoenix NAA, and has determined that the data are complete, except for the Tempe monitoring station.[25] Monitoring at the Tempe station was temporarily suspended from April to October in 2015 as a result of significant modifications by the landowner to the site. MCAQD notified the EPA of this temporary closure in MCAQD's 2015 annual ambient air monitoring plan.[26] The Tempe monitoring site was not the design value monitor in the Phoenix NAA for the five previous valid design value years (2010–2014). In addition, Tempe did not have the highest fourth-highest daily maximum 8-hour ozone concentrations in the NAA in 2016 or 2017. For these reasons, the temporary closure and invalid 2017 design value at the Tempe monitoring site does not affect the EPA's ability to determine the design value for the area. For the remaining ozone monitoring sites in the Phoenix NAA, daily maximum 8-hour average concentrations are available for at least 90 percent of the days within the ozone monitoring season, on average for the 2015–2017 period, and daily maximum 8-hour average concentrations are available for at least 75 percent of the days within the ozone monitoring season for each individual year within that period. Therefore, the remaining sites meet the data completeness requirements of 40 CFR part 50, appendix P.[27]

### *B. Evaluation of the Ambient Air Quality Data*

As noted previously, the applicable attainment date for the Phoenix NAA is July 20, 2018. We have reviewed the

Philip A. McNeely, Director, Maricopa County Air Quality Department (MCAQD), dated October 31, 2016, approving MCAQD's 2015 annual monitoring network plan; Letter from Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region IX, to Philip A. McNeely, Director, Maricopa County Air Quality Department (MCAQD), dated October 30, 2017, approving MCAQD's 2016 annual monitoring network plan; Letter from Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region IX, to Philip A. McNeely, Director, Maricopa County Air Quality Department (MCAQD), dated October 30, 2018, approving MCAQD's 2017 annual monitoring network plan.

[14] Letter from Gwen Yoshimura, Acting Manager, Air Quality Analysis Office, EPA Region IX, to Michael Sundblom, Director, Pinal County Air Quality Control District (PCAQCD), dated October 31, 2016, approving PCAQCD's 2015 annual monitoring network plan; Letter from Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region IX, to Michael Sundblom, Director, Pinal County Air Quality Control District (PCAQCD), dated October 30, 2016, approving PCAQCD's 2016 annual monitoring network plan; Letter from Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region IX, to Michael Sundblom, Director, Pinal County Air Quality Control District (PCAQCD), dated October 30, 2018, approving PCAQCD's 2017 annual monitoring network plan.

[15] Letter from Gwen Yoshimura, Acting Manager, Air Quality Analysis Office, EPA Region IX, to Timothy S. Franquist, Director, Air Quality Division, Arizona Department of Environmental Quality (ADEQ), dated November 3, 2016, approving ADEQ's 2015 annual monitoring network plan; Letter from Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region IX, to Timothy S. Franquist, Director, Air Quality Division, Arizona Department of Environmental Quality (ADEQ), dated November 3, 2016, approving ADEQ's 2016 annual monitoring network plan; Letter from Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region IX, to Timothy S. Franquist, Director, Air Quality Division, Arizona Department of Environmental Quality (ADEQ), dated October 30, 2017, approving ADEQ's 2017 annual monitoring network plan.

[16] Letter from Gwen Yoshimura, Acting Manager, Air Quality Analysis Office, EPA Region IX, to Christopher Horan, Division Manager, Environmental Protection & Natural Resources Division, Salt River Pima-Maricopa Indian Community (SRPMIC), dated October 31, 2016, approving SRPMIC's 2015 annual monitoring network plan; Letter from Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region IX, to Christopher Horan, Division Manager, Environmental Protection & Natural Resources Division, Salt River Pima-Maricopa Indian Community (SRPMIC), dated October 30, 2017, approving SRPMIC's 2016 annual monitoring network plan; Letter from Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region IX, to Christopher Horan, Division Manager, Environmental Protection & Natural Resources Division, Salt River Pima-Maricopa Indian Community (SRPMIC), dated October 30, 2018, approving SRPMIC's 2017 annual monitoring network plan.

[17] Letter from Elizabeth J. Adams, Director, Air Division, EPA Region IX, to Mr. Timothy Franquist, Director, Air Quality Division, ADEQ, dated April 25, 2019, transmitting findings from the EPA's 2018 TSA of the ADEQ's ambient air monitoring program.

[18] Letter from Elizabeth J. Adams, Acting Director, Air Division, EPA Region IX, to Mr. Michael Sundblom, Director, PCAQCD, dated September, 28, 2016, transmitting findings from the EPA's 2016 TSA of the PCAQCD's ambient air monitoring program.

[19] Letter from Elizabeth J. Adams, Acting Director, Air Division, EPA Region IX, to Philip A. McNeely, Director, MCAQD, dated June 12, 2017, transmitting findings from the EPA's 2016 TSA of the MCAQD's ambient air monitoring program.

[20] Letter from Elizabeth J. Adams, Acting Director, Air Division, EPA Region IX, to Mr. Christopher Horan, Environmental Director, SRPMIC, dated August 29, 2017, transmitting findings from the EPA's 2016 TSA of the SRPMIC's ambient air monitoring program.

[21] Letter from Timothy Franquist Jr, Deputy Director, Air Quality Division, Arizona Department of Environmental Quality, to Deborah Jordan, EPA Region IX, dated April 27, 2015 [correct date was April 27, 2016], Certification of 2015 Ambient Air Data and Re-Certification of 2014 Ambient Air Data in AQS Database Reported by ADEQ; Letter from Timothy S. Franquist, Director, Air Quality Division, Arizona Department of Environmental Quality, to Elizabeth Adams, Acting Air Division Director, Air Division, EPA Region IX, dated April 5, 2017, Certification of 2016 Ambient Air Data and Re-Certification of 2015 Ambient Air Data in AQS Database Reported by ADEQ; Letter from Timothy S. Franquist, Director, Air Quality Division, to Elizabeth Adams, Air Division Director, EPA Region IX, dated April 27, 2018, Certification of 2017 Ambient Air Data and Re-Certification of 2016 Ambient Air Data in AQS Database Reported by ADEQ.

[22] Letter from Philip A. McNeely, Director, Maricopa County Air Quality Department, to Deborah Jordan, Air Division, EPA Region IX, dated April 25, 2016, 2015 Data Certification Letter; Letter from Philip A. McNeely, Director, Maricopa County Air Quality Department, to Elizabeth Adams, Acting Director, Air Division, EPA Region IX, dated April 7, 2017, 2016 Data Certification Letter; Letter from Philip A. McNeely, Director, Maricopa County Air Quality Department, to Elizabeth Adams, Acting Director, Air Division, EPA Region IX, dated April 10, 2018, 2017 Data Certification.

[23] Letter from Josh DeZeeuw, Air Quality Manager, Pinal County Air Quality Control District, to Deborah Jordan, dated April 29, 2016, AQS Data Certification—2015; Letter from Josh DeZeeuw, Air Quality Manager, Pinal County Air Quality Control District, to Elizabeth Adams, dated April 28, 2017, AQS Data Certification—2016; Letter from Josh DeZeeuw, Air Quality Manager, Pinal County Air Quality Control District, to Elizabeth Adams, dated April 30, 2018, AQS Data Certification—2017.

[24] Letter from Christopher Horan, Environmental Protection & Natural Resources Manager, Salt River Pima Maricopa Indian Community, to Deborah Jordan, Director, Air Division, EPA Region IX, dated April 27, 2016, 2015 AQS Data Certification of Ambient Air Monitoring Data; Letter from Christopher Horan, Environmental Protection & Natural Resources Manager, Salt River Pima Maricopa Indian Community, to Elizabeth Adams, Acting Director, Air Division, EPA Region IX, dated March 31, 2016 [correct date was March 31, 2017], 2016 AQS Data Certification of Ambient Air Monitoring Data; Letter from Christopher Horan, Environmental Protection & Natural Resources Manager, Salt River Pima Maricopa Indian Community, to Elizabeth Adams, Acting Director, Air Division, EPA Region IX, dated April 13, 2018, 2017 AQS Ambient Air Monitoring Data Certification.

[25] See EPA, Air Quality System, Design Value Report, May 20, 2019.

[26] 2015 Air Monitoring Network Plan, Philip A. McNeely, Director, MCAQD, submitted June 30, 2016.

[27] The Rio Verde Ozone SLAMS was approved for closure in 2017, however, there were sufficient data for the monitor to still have a valid 2015–2017 design value.

data collected at the monitoring sites within that area during the three-year period preceding the attainment date (2015–2017) to determine whether the area attained the 2008 ozone standard by the attainment date. Table 1 shows the fourth-highest daily maximum 8-hour ozone concentrations for 2015 through 2017, 2015–2017 design values, and data completness for ozone monitors within the Phoenix NAA. The design value for a given area is based on the monitoring site in the area with the highest design value.

TABLE 1—PHOENIX NAA: 2015–2017 MONITORING SITE-LEVEL DESIGN VALUES FOR THE 2008 8-HOUR OZONE NAAQS

| AQS site ID | Site name | 4th Highest daily maximum 8-hour average value (ppm) | | | 2015–2017 Design value | Percent complete | | | 2015–2017 Average percent complete |
|---|---|---|---|---|---|---|---|---|---|
| | | 2015 | 2016 | 2017 | | 2015 | 2016 | 2017 | |
| 040130019 | West Phoenix | .074 | .071 | .077 | .074 | 100 | 100 | 100 | 100 |
| 040131003 | Mesa | .072 | .075 | .078 | .075 | 100 | 100 | 100 | 100 |
| 040131004 | North Phoenix | .074 | .075 | .077 | .075 | 100 | 99 | 100 | 100 |
| 040131010 | Falcon Field | .072 | .073 | .078 | .074 | 100 | 98 | 99 | 99 |
| 040132001 | Glendale | .067 | .066 | .068 | .067 | 98 | 99 | 98 | 98 |
| 040132005 | Pinnacle Peak | .074 | .074 | .077 | .075 | 99 | 100 | 98 | 99 |
| 040133002 | Central Phoenix | .071 | .070 | .071 | .070 | 100 | 100 | 99 | 100 |
| 040133003 | South Scottsdale | .068 | .070 | .070 | .069 | 98 | 99 | 99 | 99 |
| 040134003 | South Phoenix | .070 | .067 | .072 | .069 | 100 | 100 | 99 | 100 |
| 040134004 | West Chandler | .070 | .069 | .074 | .071 | 100 | 100 | 100 | 100 |
| 040134005 | Tempe | N/A | .068 | .065 | N/A | 12 | 100 | 99 | 76 |
| 040134008 | Cave Creek | .069 | .071 | .071 | .070 | 100 | 100 | 99 | 99 |
| 040134010 | Dysart | .067 | .063 | .076 | .068 | 100 | 100 | 89 | 95 |
| 040134011 | Buckeye | .060 | .059 | .070 | .063 | 98 | 99 | 91 | 95 |
| 040139508 | Humboldt Mtn | .073 | .072 | .074 | .073 | 97 | 100 | 100 | 99 |
| 040139702 | Blue Point | .071 | .071 | .074 | .072 | 99 | 100 | 99 | 100 |
| 040139704 | Fountain Hills | .069 | .068 | .073 | .070 | 100 | 100 | 97 | 99 |
| 040139706 | Rio Verde | .068 | .070 | .068 | .068 | 100 | 100 | 83 | 92 |
| 040139997 | JLG Supersite | .075 | .075 | .076 | .075 | 98 | 94 | 98 | 97 |
| 040137020 | Senior Center | .073 | .070 | .075 | .072 | 100 | 100 | 99 | 100 |
| 040137021 | Red Mountain | .074 | .071 | .079 | .074 | 100 | 99 | 99 | 99 |
| 040137022 | Lehi | .076 | .072 | .077 | .075 | 100 | 99 | 97 | 99 |
| 040137024 | High School | .072 | .070 | .075 | .072 | 96 | 98 | 98 | 98 |
| 040213001 | AJ Maintenance | .073 | .072 | .079 | .074 | 97 | 97 | 96 | 97 |

In the EPA's review of monitoring data for the 2008 ozone standard for the Phoenix NAA, the EPA is excluding certain exceedances of the standard from the attainment determination presented herein because they were the result of exceptional events. ADEQ provided documentation supporting requests for concurrence on wildfire ozone exceptional events covering a total of 14 exceedances recorded on June 20, 2015, and July 7, 2017, at monitors within the Phoenix NAA. The EPA reviewed the documentation that ADEQ provided to demonstrate that these exceedances meet the criteria for exceptional events under the EPA's Exceptional Events Rule.[28] The EPA concurred with ADEQ's requests for determinations that, based on the weight of evidence, the exceedances were caused by wildfire ozone exceptional events.[29] Accordingly, the EPA has determined that the monitored exceedances associated with these exceptional events should be excluded from use in determinations of exceedances and violations, including the evaluation of whether the Phoenix NAA has attained by the attainment date in accordance with CAA section 181(b)(2)(A).

Our proposed determination that the area has attained the 2008 ozone NAAQS is based in part on our concurrence with ADEQ that the exceedances monitored in the Phoenix NAA on June 20, 2015, and July 7, 2017, were caused by wildfire ozone exceptional events, and our related exclusion of these exceedances from the attainment determination.

## III. Proposed Action

The EPA is proposing to determine that the Phoenix NAA has attained the 2008 ozone standard by its Moderate area attainment date of July 20, 2018, based on complete, quality-assured, and certified ambient air quality monitoring data for the 2015–2017 monitoring period. Based on our proposed finding of attainment by the applicable attainment date, we are also proposing to determine that the CAA requirement for the SIP to provide for contingency measures to be implemented in the event the area fails to attain (''attainment contingency measures'') will no longer apply to the Phoenix NAA. Under CAA section 172(c)(9), attainment contingency measures must be implemented only if the area fails to attain by the attainment date. Therefore, if we finalize the determination that the Phoenix NAA has attained the 2008 ozone standard, attainment contingency measures for this NAAQS would never be required to be implemented, regardless of whether the area continues to attain the NAAQS. The State submitted contingency measures as part of the Phoenix area 2008 Moderate ozone plan adopted in December 2016. We will defer taking any action on these measures in light of this proposed finding of attainment by the applicable attainment date and resulting

[28] 40 CFR 50.1(j), (k), (l), (m), (n), (o), (p), (q), (r); 50.14; 51.930. See also 40 CFR part 50, appendix P, section 1.a, (determinations of whether to exclude, retain, or make adjustments to the data affected by exceptional events is determined by the requirements under 40 CFR 50.1, 50.14 and 51.930).

[29] See letters from Elizabeth J. Adams, Director, Air Division, EPA Region IX, to Timothy S. Franquist, Director, Air Quality Division, ADEQ, dated February 5, 2019, and May 7, 2019.

determination that the attainment contingency measure requirement no longer applies to the area. The State may elect to withdraw the attainment contingency measures to lift the obligation on the EPA under section 110(k) to act on these measures.

We are not proposing to suspend the attainment-related requirements for the Phoenix NAA under 40 CFR 51.1118 at this time because ozone monitoring data for 2018 are not consistent with continued attainment of the standard in the Phoenix NAA.

We also note that, if finalized, this proposed determination that the Phoenix ozone NAA has attained the 2008 ozone NAAQS would not constitute a redesignation of the area to attainment for the 2008 ozone standard. Under CAA section 107(d)(3)(E), redesignations to attainment require states to meet a number of additional statutory criteria, including the EPA's approval of a SIP revision demonstrating maintenance of the standard for 10 years after redesignation. The designation status of the Phoenix area will remain Moderate nonattainment for the 2008 ozone NAAQS until such time as the EPA determines that the area meets the CAA requirements for redesignation to attainment.

## IV. Environmental Justice Considerations

The EPA believes that this proposed action will not have disproportionately high or adverse human health or environmental effects on minority, low-income, or indigenous populations.

The purpose of this rule is to determine whether the Phoenix NAA attained the 2008 ozone standard by its Moderate area attainment date, which is required under the CAA for purposes of implementing the 2008 ozone standard. As such, this action does not directly affect the level of protection provided for human health or the environment.

## V. Statutory and Executive Order Reviews

*A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

*B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs*

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

*C. Paperwork Reduction Act (PRA)*

This rule does not impose any new information collection burden under the PRA not already approved by the OMB.

*D. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities.

*E. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local or tribal governments, or the private sector.

*F. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, tribes, or the relationship between the national government and the states and tribes, or on the distribution of power and responsibilities among the various levels of government.

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

This action has tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. Four tribes have areas of Indian country within or directly adjacent to the Phoenix NAA: Fort McDowell Yavapai Nation, Gila River Indian Community, Salt River Pima-Maricopa Indian Community of the Salt River Reservation, and the Tohono O'odham Nation of Arizona. The EPA intends to communicate with potentially affected tribes located within or directly adjacent to the boundaries of the Phoenix NAA as the agency moves forward in developing a final rule.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*J. National Technology Transfer Advancement Act (NTTAA)*

This rulemaking does not involve technical standards.

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

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations. The results of this evaluation are contained in the section of the preamble titled ''Environmental Justice Considerations.''

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

Dated: May 31, 2019.

**Deborah Jordan,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 2019–12517 Filed 6–12–19; 8:45 am]

BILLING CODE 6560–50–P

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## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 54

**[WC Docket No. 06–122; FCC 19–46]**

## Universal Service Contribution Methodology

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) seeks comment on establishing a cap on the Universal Service Fund (USF or Fund) and ways it could enable the Commission to evaluate the financial aspects of the four USF programs in a more holistic way, and thereby better achieve the overarching universal service principles

Congress directed the Commission to preserve and advance.

**DATES:** Comments are due on or before July 15, 2019 and reply comments are due on or before August 12, 2019.

**ADDRESSES:** Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section of this document. Comments and reply comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998). If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this document, you should advise the contact listed in the **FOR FURTHER INFORMATION CONTACT** section as soon as possible.

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

*People with Disabilities:* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

**FOR FURTHER INFORMATION CONTACT:** Karen Sprung, Wireline Competition Bureau, (202) 418–7400 or TTY: (202) 418–0484.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket No. 06–122; FCC 19–46, adopted on May 15, 2019 and released on May 31, 2019. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW, Washington, DC 20554 or at the following internet address: *https://www.fcc.gov/ecfs/filing/05310169808865.*

## I. Introduction

1. In the NPRM, the Commission seeks comments on establishing a cap on the Universal Service Fund (USF or Fund) and ways it could enable the Commission to evaluate the financial aspects of the four USF programs in a more holistic way, and thereby better achieve the overarching universal service principles Congress directed the Commission to preserve and advance. While each of the constituent USF programs are capped or operating under a targeted budget, the Commission has not examined the programs holistically to determine the most efficient and responsible use of these federal funds. A cap could promote meaningful consideration of spending decisions by the Commission, limit the contribution burden borne by ratepayers, provide regulatory and financial certainty, and promote efficiency, fairness, accountability, and sustainability of the USF programs.

2. The Communications Act of 1934 first established the concept of universal service, and the Telecommunications Act of 1996 formalized and expanded universal service, paving the way for the programs that exist today. The Fund provides financial support to recipients through four major programs: The High-Cost program (also known as the Connect America Fund), the Lifeline program, the schools and libraries program, also known as E-Rate, and the Rural Health Care program. Financial contributions to the Fund are required to be made by providers of telecommunications and telecommunications services, who are assessed charges based on their interstate and international revenues. Consumers ultimately pay these charges, however, either through higher prices or line-item charges on their bills.

3. The Commission initiates this proceeding mindful of its obligation to safeguard the USF funds ultimately paid by ratepayers, and to ensure the funds are spent prudently and in a consistent manner across all programs. Although the creation of a topline budget will not eliminate the Commission's ability to increase funding for a particular program, a cap would require it to expressly consider the consequences and tradeoffs of spending decisions for the overall fund, and more carefully evaluate how to efficiently and responsibly use USF financial resources. The Commission takes this action to preserve and advance universal service, to increase access to telecommunications services for all consumers at just, reasonable, and affordable rates, to meet its obligation to protect against Fund waste, and to ensure that the universal service programs are funded appropriately.

4. Section 254(b) of the Telecommunications Act of 1996 directs the Commission to base policies for the preservation and advancement of universal service on a number of principles. The Commission's statutory obligation requires that the Commission's policies result in equitable and nondiscriminatory contributions to the Fund, as well as specific and predictable support programs. In order to fulfill Congress' directive, the Commission must balance the need for fiscal responsibility and predictability with the benefits that comes from universal service funding. However, as courts and the Commission have recognized, too much subsidization could negatively affect the affordability of telecommunications services for those consumers who ultimately provide the support for universal service. Although the Commission has taken steps over the last decade to set caps or funding targets for each of the four programs individually, for the first time it looks at the Fund and its programs holistically.

5. *High-Cost.* The High-Cost program provides support for the deployment of broadband-capable networks in rural areas. It helps make broadband, both fixed and mobile, available to homes, businesses, and community anchor institutions in areas that do not, or would not otherwise have broadband. The *USF/ICC Transformation Order,* 76 FR 73830, November 29, 2011, comprehensively reformed and modernized the High-Cost program and established, for the first time, a budget mechanism for the various Connect America Fund (CAF) programs. For years 2012–2017, the budget was set at

no more than $4.5 billion per year, with an automatic review trigger if the budget was threatened to be exceeded. The Commission did not include an inflationary adjustment in the $4.5 billion budget adopted in 2011. The Commission in 2011 also directed the Fund Administrator, the Universal Service Administrative Company (USAC), to collect $1.125 billion per quarter for High-Cost funding, regardless of the projected quarterly demand, to avoid dramatic shifts in the contribution factor while the CAF was implemented. Any excess money collected is kept in reserve for the CAF initiatives. The CAF, which focused on supporting different technologies and recipients with different funding amounts, disbursed $4.692 billion in 2017, of which approximately $480 million came from the CAF reserves.

6. *Schools and Libraries.* The schools and libraries universal service support mechanism provides discounts to schools and libraries to ensure affordable access to high-speed broadband and telecommunications necessary for digital learning. Originally capped at its inception at $2.25 billion in disbursements per funding year, the Commission began indexing the funding cap to inflation in 2010 to ensure that E-Rate program funding keeps pace with the changing broadband and telecommunications needs of schools and libraries. The Commission then increased the cap in funding year 2015 by $1.5 billion. In funding year 2018, the E-Rate cap was $4.06 billion and demand for actual support was $2.77 billion.

7. *Rural Health Care.* The Rural Health Care (RHC) Program provides funding to eligible healthcare providers for telecommunications and broadband services necessary for the provision of health care services. When the Commission established the RHC Program in 1997, it capped funding for the program at $400 million per funding year. Beginning in 2012, the Commission expanded the RHC program to include the Healthcare Connect Fund Program, after which total RHC program demand began to steadily increase. In June 2018, the Commission raised the RHC program funding cap to $571 million, beginning in funding year 2017, to address current and future demand for supported services by health care providers. The Commission also adjusted the funding cap annually for inflation using the Gross Domestic Product Chained Price Index (GDP–CPI), beginning in funding year 2018, raising the funding cap to $581 million. In funding year 2016, RHC demand was approximately $556 million, and the total amount of qualifying funding requests was approximately $408 million.

8. *Lifeline.* The Lifeline program provides subsidies for voice and broadband services to qualifying low-income households. In 2016, the Commission adopted a budget for the program of $2.25 billion with an annual inflation adjustment. The Lifeline program budget does not automatically curtail disbursements, and in the *2017 Lifeline Order and NPRM,* 83 FR 2075, January 16, 2018 and 83 FR 2104, January 16, 2018, the Commission proposed adopting a self-enforcing budget mechanism for the Lifeline program. At the same time, recent demand has been considerably lower than the authorized budget levels. For example, the Lifeline program disbursed approximately $1.263 billion in calendar year 2017 and is on track to spend approximately $1.212 billion in 2018, compared to budgets of $2.25 billion and $2.279 billion in the respective years.

## II. Discussion

9. The Commission believes capping the Fund overall will strike the appropriate balance between ensuring adequate funding for the universal service programs while minimizing the financial burden on ratepayers and providing predictability for program participants. Moreover, setting an overall cap will enable the Commission to take a more holistic view when considering future changes to the universal service programs and their impact on overall USF spending. By explicitly linking the expenditures in multiple USF programs through the overall cap, the Commission seeks to promote a robust debate on the relative effectiveness of the programs. The Commission seeks comment on establishing an annual combined USF cap. For example, should the Commission set the overall cap at $11.42 billion, which is the sum of the authorized budgets for the four universal service programs in 2018? Should the Commission set it at a different amount? The Commission seeks comment on this proposal, as well as other methods for setting the appropriate level of an annual overall USF cap.

10. To ensure the overall cap keeps pace with inflation, the Commission seeks comment on how to adjust the cap over time. The Commission is currently using the GDP–CPI to adjust the E-Rate and RHC program caps, as well as the operating expense limitations for rate-of-return carriers, and has previously found it to be more accurate than some other measures in estimating price changes over time. The Commission seeks comment on whether there are other ways to adjust the overall cap for inflation that would be more appropriate. Should there be an index specific to each USF program and how should such program-specific indices apply to an overall USF cap? Would this process make a significant difference to the caps compared to the use of the GDP–CPI? How often should the caps be adjusted? Commenters should provide data to support their conclusions.

11. The Commission next seeks comment on how to implement the cap. One method is to determine when disbursements are projected to exceed the overall USF cap and, in that event, to reduce projected universal service expenditures to stay within the cap. Another method, given the difference in some programs between the date of commitments and the date funding is disbursed, is to cap the commitments issued by USAC. The Commission seeks feedback on the best way to track and make public universal service demand levels to appropriately anticipate pending USF demand issues. In the event disbursements are projected to exceed the overall cap, the Commission also seeks comment on the appropriate way to reduce expenditures automatically consistent with its universal service goals and consistent with the legal imperative to remain within the cap.

12. *Tracking USF Demand Transparently.* A critical function of an effective cap mechanism is that the Commission can track projected demand and to correct potential overspending before the cap is reached. As part of its administrative duties, USAC projects demand for all four programs each quarter when it calculates the proposed contribution factor. The Commission seeks comment on using this existing mechanism to help USAC and the Commission project future disbursements compared to the overall cap. In particular, the Commission seeks comment on a process whereby USAC will notify the Commission staff if the quarterly demand calculation, either alone or in combination with other data, suggests the cap will be exceeded by future disbursements. USAC may base this prediction on the size of the quarterly demand projection when, for example, the quarterly demand alone exceeds one quarter of the overall cap, or when the quarterly data in combination with other information suggests an increase in future demand above the cap. The Commission seeks comment on this idea. USAC also issues commitments in

some programs long before the funding is disbursed to recipients. Should the cap mechanism limit the commitments USAC makes or should it limit total disbursements? In determining the appropriate period of time over which to evaluate demand, should the Commission consider the annual cap exceeded over the course of any 12-month period or should the Commission evaluate the demand over the course of a calendar year? What about over the course of a funding year? Given the differences in administration of the four USF programs, are there issues with the timing of commitments and disbursements to consider when projecting demand? Should any administrative rules for any program(s) be modified to synchronize them and eliminate or mitigate any differences that would be problematic to measuring demand? What about any timing issues with respect to the mitigation measures the Commission would take to correct the projected overspending?

13. The Commission also seeks comment on extending its projections out further than one year to better anticipate potential spending over the cap. Limiting the Commission's forecasting to a single year could be insufficient to assess spending levels in future years, and the Commission would have a better opportunity to course-correct if it can evaluate demand over a more extended period of time. Should the Commission also adopt procedures to establish a five-year forecast for projected program disbursements? The Commission seeks comment on this idea. Is a five-year period appropriate or feasible? Should the Commission consider a different period of time?

14. As a first step towards greater transparency, the Commission next seeks comment on making these forecasts available to the public. USAC already makes public the quarterly demand projections and the Commission believes providing an extended forecast to the public would assist it in protecting the financial status of the Fund. Alternatively, the Commission seeks comment on making these forecasts available to state commissions. Sharing this forecast information would help to further the Commission's coordination with state commissions and allow states to continue to create complementary state universal support mechanisms. The Commission seeks comment on the best process for making these forecasts available to state commissions or the public.

15. Additionally, the Commission seeks comment on how to address forecasting miscalculations and the potential impact on programs. For example, how would the Commission correct a scenario where projected demand is expected to exceed the cap, but actual disbursements do not hit the cap? Or in the alternative, how should the Commission correct a situation where actual commitments or disbursements exceed the cap, although the forecast did not anticipate an overage? How would the Commission handle a temporary or one-time budget increase that hits the overall cap during a specific period? USAC already has experience correcting its projections for each of the programs when actual disbursements differ from its projections. Each quarter, USAC typically makes a prior period adjustment in one or more of the programs to account for actual program demand and this adjustment affects the demand for the next quarter as well as the contribution factor. Would adopting a similar process work to help correct forecasting errors? How can the Commission use USAC's prior period adjustment to adjust for miscalculations? Would more frequent forecasting help to mitigate potential forecasting errors? What other difficulties should the Commission anticipate when forecasting demand and disbursements?

16. *Reduction Mechanisms.* Next, the Commission seeks comment on how to reduce expenditures if USAC projects that disbursements will exceed the overall USF cap. First, the Commission notes that the program rules for each of the four universal service programs will continue to govern those programs, and therefore existing spending constraints in place would prevent some, but not all, of the universal service programs from exceeding their caps. The overall cap could be exceeded due to rising demand, or a future Commission decision to increase funding for a program or to institute a new USF program without any corresponding increase in the overall cap. The Commission seeks comment on ideas to reduce expenditures as needed under each of these scenarios. Should these reductions take place when commitments are expected to exceed the caps or should they only take place when disbursements are projected to exceed the caps? What criteria should be used in prioritizing reductions of one program against reduction in another?

17. First, the Commission seeks comment on directing USAC and Commission staff to make administrative changes to reduce the size or amount of funding available to the individual program caps in an upcoming year if demand is projected to exceed the overall cap. For instance, should the Commission consider limiting some or all of the automatic inflation increases in the programs? The Commission seeks comment on this idea and on directing the Wireline Competition Bureau, which oversees the Fund, or the Office of the Managing Director, which currently calculates the quarterly contribution factor, to carry it out. Are there other administrative changes the Commission should consider that could provide greater flexibility to allow USAC and the Commission to address this issue, such as using reserve or carry forward funds to offset potential spending over the cap?

18. Second, the Commission seeks comment on prioritizing the funding among the four universal service programs and other possible universal service pilots or programs if still necessary to expenditures where USAC projects that total disbursements will exceed the overall cap. Adopting clear prioritization rules and evaluating the tradeoffs associated with these funding decisions could make disbursements more specific and predictable. The Commission seeks comment on the best methods for prioritizing funding when faced with projected disbursements exceeding the overall cap. How should the Commission prioritize among the programs? For instance, should the Commission prioritize based on the cost-effectiveness of each program or the estimated improper payment rates? Should the Commission instead prioritize based on the types of services to be funded or by rurality of the recipient? The Commission also seeks comment on whether to consider limits to any demand reductions. Any prioritization will result in less funding available for one of the programs. In this instance, should there be a maximum amount that a program can be reduced, either as a percentage of its annual budget or a specific dollar amount? Should the Commission instead consider reducing each program's disbursements by the same amount, rather than prioritizing funding among the programs? Under such an approach, unexpected increases in demand in one program could affect the funding levels of other programs that have not experienced similar unexpected increases in demand. Is this a desirable outcome? Should any funding reduction mechanism distinguish between increased demand due to natural, and other, disasters and unexpected increases in demand due to other factors? How should the Commission account for future universal service

expenditures that the Commission may create? In past years, the Commission has established pilot programs designed to test the use of universal service funding for new purposes and has also dedicated discrete amounts of funding for emergency purposes. How should those pilot program or emergency expenditures be prioritized in comparison to the existing programs for universal service funding? What other factors should the Commission consider when considering how best to prioritize funding among the programs?

19. Finally, the Commission seeks comment on how to account for additional duties or obligations that the Commission might create in other proceedings that potentially would cause projected expenditures to exceed the cap within the next five years. For example, if the Commission proposes to create a new USF program or allocate additional funding to a program, that action would not occur unless the Commission either: (a) Cuts spending elsewhere to keep projected spending below the cap or (b) raises the overall cap. The Commission seeks comment on this idea.

20. The Commission next seeks comment on possible changes to the budget structures of the individual universal service programs in order to establish a maximum level of universal service support that can be disbursed annually, thus limiting contribution burdens and providing predictability to contributors and ratepayers. First, the Commission seeks comment on other changes to any of the universal service program rules that would assist the Commission in its efforts to achieve a more holistic and coherent approach to universal service support. For instance, consistent with previously-proposed rule changes, would self-enforcing caps on each of the programs provide more predictability to universal service spending? Are there other changes that would better align the four programs to reduce duplicative work or simplify the administration of the overall cap?

21. Additionally, the Commission seeks comment on how best to balance program needs with the contribution burdens imposed on ratepayers. In particular, the Commission requests information and data related to the economic efficiency costs associated with increasing contributions above current levels. Estimating the benefits of these programs could allow the Commission to prioritize them by their cost effectiveness. Are there ways to compare effectiveness across the programs more holistically in order to measure program efficiency? How should the Commission balance the benefits of the different programs with the costs of increased contributions by ratepayers? The Commission seeks concrete proposals that illustrate how program effectiveness would be measured and how it would affect the allocation of contributions between the individual programs. Weighing the costs of increased contributions against the estimated benefits of the programs could allow the Commission to better assess whether funds are allocated efficiently. The Commission seeks comment on this idea and encourages commenters to include data to support their conclusions.

22. The Commission also seeks comment on combining the E-Rate and RHC program caps. Schools, libraries, and healthcare facilities increasingly offer important community resources over their broadband networks. Combining the program caps may be justifiable given that both programs promote the use of advanced services to anchor institutions that have similar needs for high-quality broadband services. Additionally, many of these institutions often operate through consortia for the purpose of simplifying applications for program support and lowering the costs for participating members. In other USF proceedings, some stakeholders have asked the Commission to reexamine the rules to better harmonize the USF program rules. It is reasonable, therefore, to consider combining the caps to create additional implementation efficiencies and flexibility. However, is administrative simplicity a sufficient reason to combine the programs under a single cap? Does combining the caps promote efficient use of limited funds if the effectiveness of the two programs differ significantly?

23. The Commission seeks comment on the practical effect of combining the E-rate and Rural Health Care budgets. While the E-rate program has been substantially under its cap since its budget was increased to approximately $4 billion per year indexed to inflation in 2014, there has been significant pressure on the Rural Health Care budget in recent years, and the Commission in 2018 increased the Rural Health Care budget to $571 million indexed to inflation. Assuming current trends persist in future years, would a combined budget that allows support for participants in either program to come from a single fund improve the efficiency with which these programs could disburse funding? Would a combined budget effectively increase the budget on whichever program is closest to their cap?

24. Under this proposal, both the E-Rate and RHC programs would share a combined total cap of more than $4.64 billion in funding year 2018 and as long as total demand for both programs did not exceed the combined cap, all funding requests for both programs would be approved. To ensure that each program has a predictable level of support, the Commission also proposes that if demand for either programs were to meet or exceed their individual program funding caps, each program would continue to be subject to its individual program cap and the existing program rules would apply. For example, if in funding year 2018 demand for E-Rate support exceeded the E-Rate cap and demand for RHC support also exceeded that program's existing cap, E-Rate requests would be prioritized according to current E-rate program rules, up to $4.062 billion, and RHC requests would be subject to the proration rules in effect in RHC, up to $581 million. The Commission also believes that rules pertaining to carrying funds forward, inflationary adjustments, prioritization, and proration would continue to apply within each of the individual programs. The Commission seeks comment on this proposal. Is there any downside to such a proposal? The Commission also seeks comment on the mechanics of how it would distribute funding under a combined, prioritization scheme.

## III. Procedural Matters

### *A. Paperwork Reduction Act*

25. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

26. *Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities from the policies and rules proposed in this NPRM. The Commission requests written public comment on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief

Counsel for Advocacy of the Small Business Administration (SBA).

27. This NPRM seeks comment on a proposal to adopt an overall cap on the Fund and to combine the caps for the schools and libraries and Rural Health Care programs in an effort to promote efficiency, fairness, and sustainability. This action is taken consistent with the Commission's objective to preserve and advance universal service, together with its obligation to protect against program waste, fraud, and abuse, and to ensure that programs are funded appropriately. A cap will limit the overall contribution burden and will provide regulatory and financial certainty to both recipients of and contributors to the Fund, including small businesses.

28. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A small-business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

29. The NPRM proposes changes to the Fund and the four universal service support mechanisms in order to promote efficiency, fairness, and sustainability. The proposals in this NPRM are directed at enabling the Commission to meet its goals and objectives for the Fund, to preserve and advance universal service, to meet its obligation to protect against Fund waste, and to ensure that the universal service programs are funded appropriately. The NPRM seeks comment on some potential changes that could increase economic burdens on small entities, as well as some potential changes that would decrease economic burdens on small entities.

30. *Contributions.* Universal Service support is funded by ratepayers and continuing to increase Fund expenditures unchecked risks an increased burden on consumers, including small businesses. Capping the Fund at $11.42 billion overall will strike the appropriate balance between ensuring adequate funding for the universal service programs while minimizing the burdens placed on ratepayers, including small businesses, who contribute to the programs.

31. *Programmatic Changes.* The Commission does not expect that the proposed changes will result in disruption to the programs or services provided by the programs. However, it is possible that proposed budget reduction mechanisms, if necessary, could result in prioritization schemes or budgetary cuts that could impact program participants, including small businesses.

32. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. The Commission expects to consider all of these factors when it has received substantive comment from the public and potentially affected entities.

33. Largely, the proposals in the NPRM, if adopted, would have no impact on or would reduce the economic impact of current regulations on small entities. Certain proposals in this NPRM could have a positive economic impact on small entities; for instance, the Commission seeks comment on some changes to the budget structures of the four universal service programs in order to establish a maximum level of universal service support that can be collected. The Commission expects that this will provide predictability to contributors and ratepayers, including small entities. In addition to proposing the budget changes to the individual USF programs, the Commission proposes an overall USF budget cap as well as reduction mechanisms to correct a scenario when disbursements exceed or are projected to exceed the proposed overall USF budget. The Commission expects that an overall cap will help to reduce the contribution burden for all contributors, including small businesses. In the NPRM, the Commission seeks comment on the burden this change would create for carriers and will factor that into its decision.

34. More generally, the Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the NPRM and this IRFA, in reaching its final conclusions and taking action in this proceeding. The proposals and questions laid out in the NPRM were designed to ensure the Commission has a complete understanding of the benefits and potential burdens associated with the different actions and methods.

35. *Ex Parte Presentations.* The proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

## IV. Ordering Clauses

36. Accordingly, *it is ordered* that, pursuant to the authority found in sections 1–5, 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 332, 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151–155, 201–206, 214, 218–220, 251, 252, 254, 256,

303(r), 403, and 405, this Notice of Proposed Rulemaking *is adopted*.

Federal Communications Commission.

**Katura Jackson,**

*Federal Register Liaison.*

[FR Doc. 2019–12162 Filed 6–12–19; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 622

**RIN 0648–BI98**

### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Amendment 42

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

**ACTION:** Notice of availability (NOA); request for comments.

**SUMMARY:** The South Atlantic Fishery Management Council (South Atlantic Council) has submitted Amendment 42 to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region for review, approval, and implementation by NMFS. If approved by the Secretary of Commerce, Amendment 42 would add three new devices as options for fishermen with Federal commercial or charter vessel/headboat permits for South Atlantic snapper-grouper to meet existing requirements for sea turtle release gear, and would simplify and clarify the requirements for other sea turtle release gear. Amendment 42 would also modify the FMP framework procedure to allow for future changes to release gear and handling requirements for sea turtles and other protected resources. The purpose of Amendment 42 is to allow the use of new devices to safely handle and release incidentally captured sea turtles, clarify existing requirements, and streamline the process for making changes to the release devices and handling procedures for sea turtles and other protected species.

**DATES:** Written comments on Amendment 42 must be received by August 12, 2019.

**ADDRESSES:** You may submit comments on Amendment 42 identified by ''NOAA–NMFS–2019–0047'' by either of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0047,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit all written comments to Frank Helies, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

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

Electronic copies of Amendment 42 may be obtained from *www.regulations.gov* or from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/amendment-42-modifications-sea-turtle-release-gear-and-framework-procedure-snapper-grouper.* Amendment 42 includes a fishery impact statement, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis.

**FOR FURTHER INFORMATION CONTACT:** Frank Helies, NMFS Southeast Regional Office, telephone: 727–824–5305; email: *frank.helies@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or FMP amendment to NMFS for review, and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, publish an announcement in the **Federal Register** notifying the public that the FMP or amendment is available for review and comment.

The Council prepared the FMP being revised by Amendment 42, and if approved, Amendment 42 would be implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

## Background

The Endangered Species Act (ESA) directs all Federal agencies to ensure that any action they authorize, fund, or carry-out is not likely to jeopardize the continued existence of endangered or threatened species, or destroy or adversely modify designated critical habitat. In June 2006, NMFS issued a biological opinion (2006 BiOp), in accordance with section 7 of the ESA, that evaluated the impact of the South Atlantic snapper-grouper fishery on ESA-listed sea turtles and smalltooth sawfish. The 2006 BiOp concluded that the anticipated incidental take of sea turtles and smalltooth sawfish by the South Atlantic snapper-grouper fishery is not likely to jeopardize their continued existence, or destroy or adversely modify designated critical habitat. However, the 2006 BiOp required that within the fishery reasonable and prudent measures be taken to minimize stress and increase the survival rates of any sea turtles and smalltooth sawfish taken in the fishery.

In response to the 2006 BiOp, the South Atlantic Council developed measures in Amendment 15B to the FMP (Amendment 15B) to increase the likelihood of survival of released sea turtles and smalltooth sawfish caught incidentally in the South Atlantic snapper-grouper fishery. The final rule for Amendment 15B required fishermen on vessels with Federal commercial or charter vessel/headboat permits for South Atlantic snapper-grouper to possess a specific set of release gear, and comply with sea turtle and smalltooth sawfish handling and release protocols and guidelines (74 FR 58902, November 16, 2009). The final rule also required those fishermen to maintain a reference copy of the NMFS sea turtle handling and release protocols document titled, ''Careful Release Protocols for Sea Turtle Release with Minimal Injury'' (Release Protocols), in the event a sea turtle is incidentally captured. These South Atlantic snapper-grouper permit holders are also required to post a NMFS placard of sea turtle handling and release guidelines inside their vessel wheelhouse, or in an easily viewable area on the vessel if there is no wheelhouse.

The required gear for safe sea turtle handling and release was initially the same gear as required for vessels using pelagic longline gear for highly migratory species. However, most effort in the snapper-grouper fishery in the South Atlantic occurs on smaller vessels using lighter tackle than used when longline fishing for pelagic species. Subsequent to Amendment 15B, Comprehensive Ecosystem-Based Amendment 2 modified sea turtle release gear requirements to allow smaller vessels to have fewer gear requirements than for pelagic longline

vessels based on the freeboard height of the snapper-grouper fishing vessel (76 FR 82183, December 30, 2011).

Since implementation of Amendment 15B, the Release Protocols have been revised twice, once in 2008, and again in 2010. NMFS recently published a 2019 revision to the Release Protocols that includes the sea turtle release devices recently approved by the NMFS Southeast Fisheries Science Center (SEFSC). Fishermen participating in the snapper-grouper fishery would be able to use these new devices to meet sea turtle release gear requirements if they are implemented via regulations.

In 2018, the Gulf of Mexico Fishery Management Council took final action on similar management measures to allow federally permitted fishermen in the commercial and charter vessel/headboat components of the reef fish fishery to use the newly-approved devices to meet requirements for sea turtle release gear. The final rule for Amendment 49 to the FMP for Reef Fish Resources in the Gulf of Mexico (Gulf) updated those fishery regulations to incorporate the new devices, and simplified and clarified the requirements for other sea turtle release gear (84 FR 22383, May 17, 2019). If NMFS implements a proposed rule for Amendment 42, regulations for release gear and handling requirements for sea turtles in the Gulf and South Atlantic would be consistent, thereby benefiting fishermen that fish in both areas.

**Actions Contained in Amendment 42**

Amendment 42 would add three new sea turtle handling and release devices, clarify the requirements for other currently required gear, and modify the FMP framework procedure to include future changes to release gear and handling requirements for sea turtles and other protected resources.

*New Sea Turtle Release Gear*

For vessels with Federal commercial and charter vessel/headboat permits for South Atlantic snapper-grouper, Amendment 42 would add three new devices that have been approved for use by SEFSC to safely handle and release sea turtles, and provide more options for fishermen to fulfill existing requirements. Details for these new devices can be found in Amendment 42 and the Release Protocols. NMFS expects the proposed new release devices would increase flexibility for fishermen and regulatory compliance within the snapper-grouper fishery, which may result in positive benefits to sea turtles.

Two of the new sea turtle handling devices are a collapsible hoop net and a sea turtle hoist (net). Both of these devices are more compact versions of the currently required long-handled dip net, and would be used for bringing an incidentally captured sea turtle on board the fishing vessel to remove fishing gear from the sea turtle. For the collapsible hoop net, the net portion is attached to hoops made of flexible stainless steel cable; when the collapsible hoop net is folded over on itself for storage, its size reduces to about half of its original diameter. Additionally, there are two versions of the sea turtle hoist. One version consists of the net portion securely fastened to a frame, providing a relatively taut platform for the sea turtle to be brought on board. Another version creates a basket with the frame and net that holds the sea turtle as it is brought on board. Both the collapsible hoop net and the sea turtle hoist use rope handles attached to either side of the frame, in place of the rigid handle on the dip net. Generally, the collapsible hoop net or hoist would be used to bring sea turtles on board vessels with a high freeboard when it is not feasible to use a dip net.

The third new device is a dehooker that can be used to remove an externally embedded hook from a sea turtle. This device has a squeeze handle that secures the hook into notches at the end of the shaft of the dehooker, so the hook can be twisted out. This new device would provide another option for fishermen to comply with the regulations for a short-handled dehooker for external hooks.

*Requirements for Existing Sea Turtle Release Gear*

Amendment 42 also would also update the requirements of some currently approved devices for clarity and simplicity, and to aid fishermen and law enforcement with compliance and enforcement efforts. These updates would include more specific measurements for sea turtle release gear. The revisions would provide for either a minimum size dimension or a size range for the short-handled dehookers for external and internal hooks, bite block on the short-handled internal use dehooker, long-nose or needle-nose pliers, bolt cutters, and the block of hard wood and hank of rope when used as mouth openers and gags. Other proposed changes to the gear requirements follow.

Current regulations specify that short- and long-handled dehookers must be constructed of 316L stainless steel, which is resistant to corrosion from salt water. The SEFSC has also approved 304L stainless steel for the construction of all short-handled and long-handled dehookers. This proposed additional grade of stainless steel is commonly available and is also corrosion resistant.

Another required device to assist with removing fishing gear from a sea turtle is a pair of monofilament line cutters. Current regulations state that the monofilament line cutters must have cutting blades of 1-inch (2.5 cm) in length (Appendix F to 50 CFR part 622). However, SEFSC has clarified that the blade length must be a minimum of 1 inch (2.5 cm) but could be longer.

Another required gear type is mouth openers and gags, used to hold a sea turtle's mouth open to remove fishing gear. At least two of the seven types of mouth openers and gags are required on board. Current regulations state that canine mouth gags, an option for this gear requirement, must have the ends covered with clear vinyl tubing, friction tape, or similar, to pad the surface. However, SEFSC determined that this was not necessary and could result in the canine mouth gags not functioning properly. Amendment 42 would remove the requirement to cover the ends of the canine mouth gags with these materials.

A life-saving device on a vessel, such as a personal flotation device or life ring buoy, may currently be used as the required cushion or support device for sea turtles brought aboard a vessel to remove fishing gear. However, Amendment 42 would add language to clarify that any life-saving device used to fulfill the sea turtle safe handling requirements cannot also be used to meet U.S. Coast Guard safety requirements of one flotation device per person on board the vessel.

Lastly, fishermen are currently required to maintain a paper copy of the Release Protocols on each vessel for reference in the event a sea turtle is incidentally captured. Amendment 42 would allow fishermen to use an electronic copy of the document to fulfill the requirement, as long as the electronic document is readily available for viewing and reference during a trip.

*FMP Framework Procedure*

Currently, adding or changing careful release devices and protocols for incidentally caught sea turtles and other protected species requires an amendment to the FMP. This limits the South Atlantic Council and NMFS' ability to implement new release devices and handling requirements in a timely manner. The FMP amendment and rulemaking process generally involves more detailed analyses and a lengthier timeline prior to implementation than rulemaking done through a framework procedure. The FMP contains a framework procedure to allow the South Atlantic Council to

modify certain management measures via an expedited process (see 50 CFR 622.194). The FMP framework procedure was last modified by the final rule implementing Amendment 27 to the FMP (78 FR 78770, December 27, 2013).

Amendment 42 would allow changes to the sea turtle release gear and handling techniques under the framework procedure. For example, the South Atlantic Council could more quickly add a new release device for sea turtles if approved by the SEFSC. The South Atlantic Council decided that making these changes through an expedited process may have beneficial biological and socio-economic impacts. The South Atlantic Council concluded that the revised framework procedure would still allow adequate opportunity for the public to comment on any future proposed regulatory changes.

**Proposed Rule for Amendment 42**

A proposed rule that would implement Amendment 42 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable laws. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

**Consideration of Public Comments**

The Council has submitted Amendment 42 for Secretarial review, approval, and implementation. Comments on Amendment 42 must be received by August 12, 2019. Comments received during the respective comment periods, whether specifically directed to Amendment 42 or the proposed rule, will be considered by NMFS in the decision to approve, disapprove, or partially approve Amendment 42. Comments received after the comment periods will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: June 10, 2019.

**Alan D. Risenhoover,**

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

[FR Doc. 2019–12513 Filed 6–12–19; 8:45 am]

**BILLING CODE 3510–22–P**

# Notices

Federal Register

Vol. 84, No. 114

Thursday, June 13, 2019

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

June 10, 2019.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC, New Executive Office Building, 725 17th Street NW, Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by July 15, 2019. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

#### Agricultural Marketing Service

*Title:* Pecans Grown in the States of Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas.

*OMB Control Number:* 0581–0291.

*Summary of Collection:* Under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 *et seq.;* Act), the U.S. Department of Agriculture (USDA) has authority to promulgate and oversee marketing orders to regulate the handling of an agricultural commodity placed in interstate or foreign commerce. Marketing orders are proposed and voted in by producers and apply to handlers who place the product in commercial channels.

*Need and Use of the Information:* The rules and regulations authorize USDA and the Council to collect certain information from producers and handlers on the volume of pecans moving through their operations and into commercial channels. Collection of this information enables the Council to calculate assessments owed by each handler. Gaining the authority to collect nationwide data on pecan inventories, shipments and foreign deliveries and acquisitions was the primary reason the U.S. pecan industry approached AMS for a Federal marketing order.

*Description of Respondents:* Business or other for profit.

*Number of Respondents:* 2,750.

*Frequency of Responses:* Reporting: On occasion; Other (when forms are requested).

*Total Burden Hours:* 2,931.

*Title:* National Sheep Industry Improvement Center.

*OMB Control Number:* 0581–0263.

*Summary of Collection:* The National Sheep Industry Improvement Center (NSIIC) was initially authorized under the Consolidated Farm and Rural Development Act (Act) (Pub. L. 104–127). The initial legislation included a provision that privatized the NSIIC 10 years after its ratification. Subsequently, the NSIIC was privatized on September 30, 1996. In 2008, the NSIIC was re-established under Title XI of the Food, Conservation, and Energy Act of 2008 also known as the 2008 Farm Bill. Section 11009 of the 2008 Farm Bill repealed the requirement in section 375(e)(6) of the Act to privatize the NSIIC. The management of the NSIIC is vested in a Board of Directors (Board) that is appointed by the Secretary of Agriculture. The primary objective of the NSIIC is to assist U.S. sheep and goat industries by strengthening and enhancing the production and marketing of sheep, goats, and their products in the United States.

*Need and Use of the Information:* Information is collected using the forms ''Nominations for Appointments;'' ''Background Information, AD–755;'' and ''Nominee's Agreement to Serve.'' AMS accepts nominations for membership on the Board from national organizations that (1) consist primarily of active sheep or goat producers in the United States and (2) have the primary interest of sheep or goat production in the United States. The information collection requirements in the request are essential to carry out the intent of the enabling legislation.

*Description of Respondents:* National Organizations consisting primarily of active sheep or goat producers in the U.S.

*Number of Respondents:* 10.

*Frequency of Responses:* Reporting: Annually.

*Total Burden Hours:* 6.

**Kimble Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2019–12485 Filed 6–12–19; 8:45 am]

BILLING CODE 3410–02–P

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Wyoming Advisory Committee

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission

on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the meeting of the Wyoming Advisory Committee (Committee) to the Commission will be held at 1:00 p.m. (MDT) Thursday, June 20, 2019. The purpose of this meeting is for the Committee to continue planning for their hearing on hate crimes.

**DATES:** Thursday, June 20, 2019 at 1:00 p.m. MDT.

*Public Call Information:* Dial: 800–682–0995, Conference ID: 7350581.

**FOR FURTHER INFORMATION CONTACT:** Ana Victoria Fortes (DFO) at *afortes@usccr.gov* or (213) 894–3437.

**SUPPLEMENTARY INFORMATION:** This meeting is available to the public through the following toll-free call-in number: 800–682–0995, conference ID number: 7350581. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894–0508, or emailed Ana Victoria Fortes at *afortes@usccr.gov*. Persons who desire additional information may contact the Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meetings at *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzliAAA*.

Please click on ''Committee Meetings'' tab. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

**Agenda**

I. Welcome and Roll Call
II. Approval of Minutes From May 23, 2019 Meeting
III. Stakeholders To Invite To Provide Testimony
IV. Next Steps
V. Public Comment
VI. Adjournment

*Exceptional Circumstance:* Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of the federal government shutdown.

Dated: June 10, 2019.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2019–12483 Filed 6–12–19; 8:45 am]

**BILLING CODE P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Virginia Advisory Committee

**AGENCY:** Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a meeting of the Virginia Advisory Committee to the Commission will convene by conference call at 12:00 p.m. (EST) on Wednesday, June 19, 2019. The purpose of the meeting is discuss and vote on the Committee's report on hate crimes in Virginia.

**DATES:** Wednesday, June 19, 2019 at 12:00 p.m. EST.

*Public Call-In Information:* Conference call-in number: 1–888–394–8218 and conference call ID number: 8310490.

**FOR FURTHER INFORMATION CONTACT:** Ivy Davis at *ero@usccr.gov* or by phone at 202–376–7533.

**SUPPLEMENTARY INFORMATION:** Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1–888–394–8218 and conference call ID number: 8310490. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call-in number: 1–888–394–8218 and conference call ID number: 8310490.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The written comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, or emailed to Corrine Sanders at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at: *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzjXAAQ,* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

**Agenda: Wednesday, June 19, 2019**

I. Rollcall
II. Welcome
III. Discuss and Vote on Committee Report
IV. Other Business
V. Next Meeting
VI. Open Comment
VII. Adjourn

*Exceptional Circumstance:* Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of the federal government shutdown.

Dated: June 10, 2019.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2019–12496 Filed 6–12–19; 8:45 am]

**BILLING CODE P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Pennsylvania Advisory Committee

**AGENCY:** Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a meeting of the Pennsylvania Advisory Committee to the Commission will convene by conference call at 11:30 a.m. (EST) on Tuesday, June, 18, 2019. The purpose of the meeting is to discuss plans for the briefing meeting on the Committee's project titled, Disparate Discipline of Students of Color, Students with Disabilities, and LGBTQ Students and to announce the members to the Planning Workgroup.

**DATES:** Tuesday, June 18, 2019, at 11:30 a.m. (EDT).

*Public Call-In Information:* Conference call-in number: 800–949–2175 and conference call ID number: 8426059.

**FOR FURTHER INFORMATION CONTACT:** Ivy Davis at *ero@usccr.gov* or by phone at 202–376–7533.

**SUPPLEMENTARY INFORMATION:** Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 800–949–2175 and conference call ID number: 8426059. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call-in number: 800–949–2175 and conference call ID number: 8426059.

Members of the public are invited to make statements during the Public Comment section of the meeting or to submit written comments. The statements must be received in the regional office approximately 30 days after the scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, or emailed to Corrine Sanders at *ero@usccr.gov.* Persons who desire additional information may phone the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at: *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzjZAAQ;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

**Agenda: Tuesday, June 18, 2019**

I. Rollcall
II. Welcome
III. Project Planning
—Announce members of the Planning Workgroup
—Discuss Plans for the Briefing Meeting on the Committee's Civil Rights Project
IV. Other Business
V. Next Meeting
VI. Public Comments
VII. Adjourn

*Exceptional Circumstance:* Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of the federal government shutdown.

Dated: June 10, 2019.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2019–12498 Filed 6–12–19; 8:45 am]

BILLING CODE P

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Nevada Advisory Committee

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Nevada Advisory Committee (Committee) to the Commission will be held at 2:00 p.m. (Pacific Time) Tuesday, July 9, 2019, the purpose of meeting is for the Committee to review a draft of their report on policing practices.

**DATES:** The meeting will be held on Tuesday, July 9, 2019 at 2:00 p.m. PT.

*Public Call Information:* Dial: 855–710–4183, Conference ID: 9604706.

**FOR FURTHER INFORMATION CONTACT:** Ana Victoria Fortes (DFO) at *afortes@usccr.gov* or (213) 894–3437.

**SUPPLEMENTARY INFORMATION:** This meeting is available to the public through the following toll-free call-in number: 855–710–4183, conference ID number: 9604706. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894–0508, or emailed Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzlJAAQ.*

Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

**Agenda**

I. Welcome
II. Approval of Minutes for May 30, 2019 Meeting
III. Review of draft report on policing practices
IV. Public Comment
V. Next Steps
VI. Adjournment

Dated: June 10, 2019.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2019–12486 Filed 6–12–19; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–580–891]**

### Carbon and Alloy Steel Wire Rod From the Republic of Korea: Final Results of Antidumping Duty Changed Circumstances Review

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) is revoking, in part, the antidumping duty order on carbon and alloy steel wire rod (wire rod) from the Republic of Korea (Korea) with respect to value spring quality (VSQ) wire rod.

**DATES:** Applicable June 13, 2019.

**FOR FURTHER INFORMATION CONTACT:** Thomas Dunne, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone 202–482–2328.

**SUPPLEMENTARY INFORMATION:**

#### Background

On March 15, 2019, Commerce initiated and published the *Preliminary Results,*[1] determining that domestic producers[2] accounting for substantially all of the production of the domestic like product to which the antidumping duty order (*AD Order*)[3] pertains, lacked interest in the relief provided by the *AD Order* with respect to valve spring quality (VSQ) wire rod from Korea. Commerce provided interested parties with an opportunity to comment on our *Preliminary Results.* We received no comments on our *Preliminary Results.*

#### Scope of the Order

The products covered by this *AD Order* are certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, less than 19.00 mm in actual solid cross-sectional diameter. Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high-nickel steel; (d) ball bearing steel; or (e) concrete reinforcing bars and rods. Also excluded are free cutting steel (also known as free machining steel) products (*i.e.,* products that contain by weight one or more of the following elements: 0.1 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorous, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium). All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

Also excluded are valve spring quality (VSQ) steel products, which is defined as wire rod:

(i) Measuring no more than 14 mm in cross-sectional diameter;

(ii) Containing by weight the following elements in the proportions shown:

(1) 0.51 percent to 0.68 percent, inclusive, of carbon;

(2) Not more than 0.020 percent of phosphorus;

(3) Not more than 0.020 percent of sulfur;

(4) Not more than 0.05 percent of copper;

(5) Not more than 70 ppm of nitrogen;

(6) 0.5 percent to 0.8 percent, inclusive, of manganese;

(7) Not more than 0.1 percent of nickel;

(8) 1.3 percent to 1.6 percent, inclusive, of silicon;

(9) Not more than 0.002 percent of titanium;

(10) Not more than 0.15 percent of vanadium; and

(11) Not more than 20ppm of oxygen of product;

(iii) Having non-metallic inclusions not greater than 15 microns and meeting all of the following specific inclusions requirements using the Max-T method:

(1) No sulfide inclusions greater than 5 microns;

(2) No alumina inclusions greater than 10 microns;

(3) No silicate inclusions greater than 5 microns; and

(4) No oxide inclusions greater than 10 microns.

The size of an inclusion is its thickness perpendicular to the axis of rolling. Max-T method is used to measure the maximum thickness of all inclusions observed in a longitudinal cross-sectional sample with a minimum surface area of 60 mm2, taken at the bottom of each coil of every heat.

The products under this *AD Order* are currently classifiable under subheadings 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3093; 7213.91.4500, 7213.91.6000, 7213.99.0030, 7227.20.0030, 7227.20.0080, 7227.90.6010, 7227.90.6020, 7227.90.6030, and 7227.90.6035 of the HTSUS. Products entered under subheadings 7213.99.0090 and 7227.90.6090 of the HTSUS also may be included in this scope if they meet the physical description of subject merchandise above. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *AD Order* is dispositive.

#### Final Results of Changed Circumstances Review

For the reasons stated in the *Preliminary Results,* and because we received no comments from interested parties to the contrary, Commerce continues to determine that domestic producers accounting for substantially all of the production of the domestic like product have no further interest in the *AD Order* with respect to VSQ wire rod from Korea. As a result of this determination and pursuant to section 751(d)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.222(g), we are revoking, in part, the *AD Order* with respect to imports of VSQ wire rod from Korea. The scope that appears in Scope of the Order section of this notice reflects this revocation, in part.

#### Instructions to CBP

Because we determine that there are changed circumstances that warrant the revocation of the *AD Order,* in part, we will instruct U.S. Customs and Border Protection to end the suspension of liquidation for the merchandise covered by the revocation on the effective date of this notice of revocation, in part, and to release any cash deposit or bond, pursuant to 19 CFR 351.222(g)(4).

[1] *See Carbon and Alloy Steel Wire Rod from the Republic of Korea: Initiation and Expedited Preliminary Results of Antidumping Duty Changed Circumstances Review,* 84 FR 9491 (March 15, 2019) (*Preliminary Results*).

[2] The domestic industry includes Nucor Corporation, Optimus Steel LLC, Keystone Consolidated Industries, Inc., and Charter Steel.

[3] *See Carbon and Alloy Steel Wire Rod from Italy, the Republic of Korea, Spain, the Republic of Turkey, and the United Kingdom: Antidumping Duty Orders and Amended Final Affirmative Antidumping Duty Determinations for Spain and the Republic of Turkey,* 83 FR 23417 (May 21, 2018) (*AD Order*).

**Notification Regarding Administrative Protective Order**

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

**Notification to Interested Parties**

We are issuing and publishing these final results and revocation, in part, and notice in accordance with sections 751(b) and 777(i) of the Act and 19 CFR 351.216, 19 CFR 351.221(c)(3), and 19 CFR 351.222.

Dated: June 6, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2019–12501 Filed 6–12–19; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–433–812]**

### Certain Carbon and Alloy Steel Cut-to-Length Plate From Austria: Preliminary Results of the Antidumping Duty Administrative Review; 2016–2018

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) preliminarily finds that sales of certain carbon and alloy steel cut-to-length plate (CTL plate) from Austria have been made below normal value (NV) during the period of review (POR), November 14, 2016, through April 30, 2018. We invite interested parties to comment on these preliminary results.

**DATES:** Applicable June 13, 2019.

**FOR FURTHER INFORMATION CONTACT:** Preston Cox, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5041.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 6, 2018, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an antidumping duty administrative review on CTL plate from Austria.[1] This review covers two producers/exporters of the subject merchandise: Bohler Edelstahl GmbH & Co KG (BEG) and Bohler Bleche GmbH & Co KG (BBG), and their affiliated companies Bohler International GmbH (BIG), voestalpine Grobblech GmbH (Grobblech), and voestalpine Steel & Service Center GmbH (SSC) (collectively, voestalpine).[2] The POR is November 14, 2016, through April 30, 2018.

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.[3] The revised deadline for the preliminary results of this review was then March 12, 2019. On March 4, 2019, we extended the preliminary results of this review to no later than June 7, 2019.[4] For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[5] The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice.

**Scope of the Order**

The product covered by the scope of the order is CTL plate from Austria. For a complete description of the scope, *see* Preliminary Decision Memorandum.

**Methodology**

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Export price and, where appropriate, constructed export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

**Preliminary Results of the Review**

As a result of this review, Commerce preliminarily determines that the following weighted-average dumping margin exists for the period November 14, 2016, through April 30, 2018:

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 83 FR 32270 (July 12, 2018).

[2] We preliminarily find that voestalpine Bohler Edelstahl GmbH & Co KG (vaBEG), voestalpine Bohler Bleche GmbH & Co KG (vaBBG), and voestalpine High Performance Metals International GmbH (vaHPMI) are the successors-in-interest to BEG, BBG, and BIG, respectively. Additionally, we preliminarily collapsed vaBEG, vaBBG, and their affiliated companies vaHPMI, Grobblech, and SSC (collectively, voestalpine). *See* Memorandum, ''Analysis Memorandum for voestalpine Companies in the Preliminary Results of the 2016/2018 Administrative Review of the Antidumping Duty Order on Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria,'' dated concurrently with and hereby adopted by this notice (Preliminary Analysis Memorandum).

[3] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding affected by the partial federal government closure have been extended by 40 days.

[4] *See* Memorandum, ''Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2016–2018,'' dated March 4, 2019.

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the 2016–2018 Administrative Review of the Antidumping Duty Order on Certain Carbon and Alloy Steel Cut-To-Length Plate from Austria,'' dated concurrently with and hereby adopted by this notice.

| Exporter/manufacturer | Weighted-average dumping margin (percent) |
|---|---|
| voestalpine Bohler Edelstahl GmbH & Co KG, voestalpine Bohler Bleche GmbH & Co KG, voestalpine High Performance Metals International GmbH, voestalpine Grobblech GmbH, voestalpine Steel & Service Center GmbH | 51.48 |

**Disclosure and Public Comment**

Commerce will disclose to parties to the proceeding any calculations performed in connection with these preliminary results of review within five days after the date of publication of this notice.[6] Interested parties may submit case briefs not later than 30 days after the date of publication of this notice in the **Federal Register**.[7] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the deadline for filing case briefs.[8] Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[9] Case and rebuttal briefs should be filed using ACCESS.[10]

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days of the date of publication of this notice.[11] Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.[12] If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a date and time to be determined.[13] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Parties are reminded that briefs and hearing requests are to be filed electronically using ACCESS and that electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time on the due date.

Unless extended, Commerce intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

**Assessment Rates**

Upon completion of the administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[14] The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[15] We intend to issue instructions to CBP 15 days after the publication date of the final results of this review.

**Cash Deposit Requirements**

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for voestalpine will be equal to the weighted-average dumping margin established in the final results of this administrative review, except if the rate is zero or de minimis within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which they were reviewed; (3) if the exporter is not a firm covered in this review, a prior review, or in the investigation but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be the all-others rate of 28.57 percent from the investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice also serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

**Notification to Interested Parties**

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and sections 19 CFR 351.213(h)(1) and 351.221(b)(4).

Dated: June 10, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Antidumping and Countervailing Duty Operations.*

## Appendix

**List of Topics Discussed in the Preliminary Decision Memorandum**

I. Summary
II. Background
III. Scope of the Order
IV. Successor-in-Interest
V. Affiliation and Collapsing of Affiliates
VI. Discussion of the Methodology
  A. Comparisons to Normal Value
  B. Determination of Comparison Method
  C. Results of the Differential Pricing Analysis
VII. Product Comparisons
VIII. Date of Sale
IX. Export Price and Constructed Export Price
X. Normal Value
  A. Home Market Viability and Selection of Comparison Market
  B. Affiliated Party Transactions and Arm's-Length Test
  C. Level of Trade
  D. Cost of Production Analysis
  1. Calculation of Cost of Production
  2. Test of Comparison Market Sales Prices
  3. Results of the COP Test
  E. Calculation of Normal Value Based on Comparison Market Prices
XI. Currency Conversion

[6] *See* 19 CFR 351.224(b).
[7] *See* 19 CFR 351.309(c)(1)(ii).
[8] *See* 19 CFR 351.309(d)(1).
[9] *See* 19 CFR 351.309(c)(2) and (d)(2).
[10] *See* 19 CFR 351.303.
[11] *See* 19 CFR 351.310(c).
[12] *See* 19 CFR 351.310(c).
[13] *See* 19 CFR 351.310(d).
[14] *See* 19 CFR 351.212(b).
[15] *See* section 751(a)(2)(C) of the Act.

XII. Recommendation

[FR Doc. 2019–12499 Filed 6–12–19; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Amendment to the Clean Energy and Zero Emission Vehicle Technologies Trade Mission to Mexico November 17–22, 2019

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The United States Department of Commerce, International Trade Administration, is amending the Notice published in April 9, 2019, regarding the Clean Energy and Zero Emission Vehicle Technologies Trade Mission to Mexico November 17–22, to modify the participation fee for the trade mission and the timeframe for recruitment and application. The participation fee for the Business Development Mission will be $4,000.00 for SME and $5,500.00 for large firms. Recruitment for the mission will conclude no later than August 9, 2019. Applications received after August 9, 2019, will be considered only if space and scheduling constraints permit.

**FOR FURTHER INFORMATION CONTACT:**

Braeden Young, Commercial Officer, U.S. Embassy-Mexico, U.S. Department of Commerce, Tel: 55–5080–2182, *Braeden.Young@trade.gov.*

Claudia Salgado, Commercial Specialist, U.S. Embassy-Mexico, U.S. Department of Commerce, Tel: 55–5080–2000, x5224, *Claudia.Salgado@trade.gov.*

Monica Martinez, Commercial Specialist, U.S. Embassy-Mexico, U.S. Department of Commerce, Tel: 55–5080–2000, x 5218, *Monica.Martinez@trade.gov.*

**SUPPLEMENTARY INFORMATION:**

Amendments to revise the selection process.

**Tiara Hampton-Diggs,**

*Program Specialist, Trade Promotion Programs.*

[FR Doc. 2019–11198 Filed 6–12–19; 8:45 am]

BILLING CODE 3510–DR–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–831]**

### Fresh Garlic From the People's Republic of China: Preliminary Results of the Antidumping Duty New Shipper Review

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) is conducting a new shipper review of Jinxiang Infang Fruit & Vegetable Co., Ltd. (Infang) regarding the antidumping duty order on fresh garlic from the People's Republic of China (China). The period of review (POR) is November 1, 2017, through May 31, 2018. We have preliminarily determined that Infang's sale was a *bona fide* transaction, and that the sale was made below normal value (NV). Interested parties are invited to comment on these preliminary results.

**DATES:** Applicable June 13, 2019.

**FOR FURTHER INFORMATION CONTACT:** Alex Cipolla, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4956.

**SUPPLEMENTARY INFORMATION:**

#### Background

On July 9, 2018, at the request of Infang, Commerce published a notice of initiation of a semiannual new shipper review of fresh garlic from China for the period November 1, 2017, through May 31, 2018.[1] On December 18, 2018, we extended the deadline for the preliminary results to April 26, 2019.[2] Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.[3] Accordingly, the revised deadline for the preliminary results was June 5, 2019. On June 5, 2019, Commerce fully extended the deadline for the preliminary results.[4] The revised deadline for the preliminary results of this review is now June 7, 2019.

#### Scope of the Order

The merchandise covered by this order is all grades of garlic, whether whole or separated into constituent cloves.[5] The subject merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings: 0703.20.0000, 0703.20.0005, 0703.20.0010, 0703.20.0015, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, and 2005.99.9700. A full description of the scope of the order is contained in the Preliminary Decision Memorandum. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description is dispositive.

#### Separate Rate

Commerce preliminarily determines that Infang is eligible to receive a separate rate in this review.[6]

#### Methodology

Commerce is conducting this review in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214. Commerce calculated export price in accordance with section 772(c) of the Act. Because China is a non-market economy country within the meaning of section 771(18) of the Act, Commerce calculated normal value in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is made available to the public electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://*

[1] *See Fresh Garlic from the People's Republic of China: Initiation of Semiannual Antidumping Duty New Shipper Review; 2017–2018,* 83 FR 31734 (July 9, 2018); *see also* Infang's Letter, ''Fresh Garlic from the People's Republic of China—Request for a New Shipper Review,'' dated May 23, 2018.

[2] *See* Memorandum, ''Fresh Garlic from the People's Republic of China—Semiannual Antidumping Duty New Shipper Review (2017–2018): Extension of Deadline for the Preliminary Results,'' dated December 18, 2018.

[3] *See* Memorandum, ''Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

[4] *See* Memorandum, ''Fresh Garlic from the People's Republic of China—Semiannual Antidumping Duty New Shipper Review (2017–2018): Extension of Deadline for the Preliminary Results,'' dated June 5, 2019.

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Semiannual 2017–2018 Antidumping Duty New Shipper Review: Fresh Garlic from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum), for a complete description of the Scope of the Order.

[6] *See* Preliminary Decision Memorandum at 5–6.

*access.trade.gov* and in Commerce's Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice.

**Preliminary Results of New Shipper Review**

As a result of the new shipper review, Commerce preliminarily determines that the following weighted-average dumping margin exists for the new shipper review covering the period November 1, 2017, through May 31, 2018:

| Producer/exporter | Weighted-average margin (dollars per kilogram) |
|---|---|
| Producer: Jinxiang Excelink Foodstuffs Co., Ltd.; Exporter: Jinxiang Infang Fruit & Vegetable Co., Ltd. | 4.31 |

**Disclosure and Public Comment**

Commerce intends to disclose the analysis performed for these preliminary results to interested parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted no later seven days after the date on which the verification report is issued. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[7] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issues; (2) a brief summary of the arguments; and (3) a table of authorities. Any electronically filed document must be received successfully in its entirely by Commerce's electronic records system, ACCESS, by the date and time it is due.

Any interested party may request a hearing within 30 days of publication of this notice.[8] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to notify parties of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.[9]

Unless the deadline is extended, Commerce intends to issue the final results of this new shipper review, which will include the results of its analysis of issues raised in any such comments, within 90 days of publication of these preliminary results, pursuant to section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(i)(1).

**Assessment Rates**

Upon completion of the final results, pursuant to 19 CFR 351.212(b), Commerce will determine, and the U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If Infang's weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent) in the final results of this new shipper review, Commerce intends to calculate an importer-specific assessment rate on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and, where possible, the total entered value of sales in accordance with 19 CFR 351.212(b)(1). Where an importer- (or customer-) specific *ad valorem* rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[10]

**Cash Deposit Requirements**

With regard to Infang, the respondent in this new shipper review, the following cash deposit requirements will be effective upon publication of the final results of this new shipper review (1) for subject merchandise produced and exported by the producer and exporter combination listed in the ''Preliminary Results of New Shipper Review'' section above, the cash deposit rate will be that established in the final results of this new shipper review; (2) for subject merchandise exported by Infang, but not produced by Jinxiang Excelink Foodstuffs Co., Ltd., the cash deposit rate will be the rate for the China-wide entity; and (3) for subject merchandise produced by Jinxiang Excelink Foodstuffs Co., Ltd., but not exported by Infang, the cash deposit rate will be the rate applicable to the exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

**Verification**

Consistent with section 782(i) of the Act and 19 CFR 351.307(b)(1)(iv), we intend to verify the information provided by Infang in the new shipper review using standard verification procedures, including on-site inspection of the producer's and exporter's facilities, and examination of relevant sales and financial records. Any verification results will be outlined in the verification report for Infang after completion of the verification.

**Notification to Importers**

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

**Notification Regarding Administrative Protective Order**

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply

[7] *See* 19 CFR 351.309(c)–(d).

[8] *See* 19 CFR 351.310(c).

[9] *See* 19 CFR 351.310(d).

[10] *See* 19 CFR 351.106(c)(2).

with the regulations and the terms of an APO is a sanctionable violation.

**Notification to Interested Parties**

We are issuing and publishing these preliminary results of this new shipper review in accordance with sections 751(a)(2)(b) and 777(i) of the Act, and 19 CFR 351.214 and 351.221(b)(4).

Dated: June 7, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

## Appendix

**List of Topics Discussed in the Preliminary Decision Memorandum**

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of Methodology
  A. Bona Fides Analysis
  B. Non-Market Economy Status
  C. Separate Rate Determination
  D. Surrogate Country and Surrogate Value Data
  E. Surrogate Country Analysis
  F. Surrogate Country Selection
  G. Date of Sale
  H. Comparisons to Normal Value
  I. Export Price
  J. Value-Added Tax
  K. Normal Value
  L. Surrogate Values
  M. Currency Conversion
V. Recommendation

[FR Doc. 2019–12495 Filed 6–12–19; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Initiation of Antidumping and Countervailing Duty Administrative Reviews

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

**DATES:** Applicable June 13, 2019.

**FOR FURTHER INFORMATION CONTACT:** Brenda E. Brown, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

**SUPPLEMENTARY INFORMATION:**

**Background**

Commerce has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

**Notice of No Sales**

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify Commerce within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://access.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on Commerce's service list.

**Respondent Selection**

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments within five days after the deadline for the initial comments.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act, the following guidelines regarding collapsing of companies for purposes of respondent selection will apply. In general, Commerce has found that determinations concerning whether particular companies should be ''collapsed'' (*e.g.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*e.g.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where Commerce considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

**Deadline for Withdrawal of Request for Administrative Review**

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

**Deadline for Particular Market Situation Allegation**

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[2] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial responses to section D of the questionnaire.

**Separate Rates**

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[4] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on Commerce's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to Commerce no later than 30 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

**Initiation of Reviews**

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than April 30, 2020.

| | Period to be reviewed |
|---|---|
| **Antidumping Duty Proceedings** | |
| ARGENTINA: Biodiesel, A–357–820 | 10/31/17–3/31/19 |
| Aceitera General Deheza S.A. | |
| Bio Nogoya S.A. | |
| Bunge Argentina S.A. | |
| Cámara Argentina de Biocombustibles | |
| Cargill S.A.C.I. | |
| COFCO Argentina S.A. | |
| Explora | |
| GEFCO Argentina | |

[2] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[3] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[4] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

| | Period to be reviewed |
|---|---|
| LDC Argentina S.A. | |
| Molinos Agro S.A. | |
| Noble Argentina | |
| Oleaginosa Moreno Hermanos S.A. | |
| Patagonia Bioenergia | |
| Renova S.A. | |
| T6 Industrial SA (EcoFuel) | |
| Unitec Bio S.A. | |
| Vicentin S.A.I.C. | |
| Viluco S.A. | |
| INDONESIA: Biodiesel, A–560–830 | 10/31/17–3/31/19 |
| PT. Cermerlang Energi Perkasa (CEP) | |
| PT. Ciliandra Perkasa | |
| PT. Musim Mas, Medan (aka PT. Musim Mas) | |
| PT. Pelita Agung Agrindustri | |
| Wilmar International Ltd. (aka Wilmar Trading PTE Ltd.) | |
| REPUBLIC OF KOREA: Phosphor Copper, A–580–885 | 4/1/18–3/31/19 |
| Bongsan Co., Ltd. | |
| THE PEOPLE'S REPUBLIC OF CHINA: Aluminum Foil, A–570–053 | 11/2/17–3/31/19 |
| Alcha International Holdings Limited | |
| Baotou Alcha Aluminum Co., Ltd. | |
| Dingsheng Aluminum Industries (Hong Kong) Trading Co., Ltd. | |
| Granges Aluminum (Shanghai) Co., Ltd. | |
| Guangxi Baise Xinghe Aluminum Industry Co., Ltd. | |
| Hangzhou Dingsheng Import & Export Co. Ltd | |
| Hangzhou Five Star Aluminum Co., Ltd. | |
| Hangzhou Teemful Aluminum Co., Ltd. | |
| Huafon Nikkei Aluminium Corporation | |
| Hunan Suntown Marketing Limited | |
| Jiangsu Alcha Aluminum Co., Ltd. | |
| Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd. | |
| Jiangsu Huafeng Aluminum Industry Co., Ltd. | |
| Jiangsu Zhongji Lamination Materials Co., (HK) Ltd. | |
| Jiangsu Zhongji Lamination Materials Co., Ltd. | |
| Jiangsu Zhongji Lamination Materials Stock Co., Ltd. | |
| Jiangyin Dolphin Pack Ltd. Co. | |
| Luoyang Longding Aluminium Industries Co., Ltd. | |
| Shandong Yuanrui Metal Material Co., Ltd. | |
| Shanghai Shenyan Packaging Materials Co., Ltd. | |
| SNTO International Trade Limited | |
| Suntown Technology Group Limited | |
| Suzhou Manakin Aluminum Processing Technology Co., Ltd. | |
| Walson (HK) Trading Co., Limited | |
| Xiamen Xiashun Aluminium Foil Co., Ltd. | |
| Yantai Donghai Aluminum Foil Co., Ltd. | |
| Yantai Jintai International Trade Co., Ltd. | |
| Yinbang Clad Material Co., Ltd. | |
| Zhejiang Zhongjin Aluminum Industry Co., Ltd. | |
| THE PEOPLE'S REPUBLIC OF CHINA: Certain Activated Carbon, A–570–904 | 4/1/18–3/31/19 |
| AM Global Shipping Lines Co., Ltd. | |
| Apex Maritime (Tianjin) Co., Ltd. | |
| Beijing Pacific Activated Carbon Products Co., Ltd. | |
| Beijing Kang Jie Kong International Cargo Agent Co Ltd. | |
| Bengbu Modern Environmental Co., Ltd. | |
| Brilliant Logistics Group Inc. | |
| Carbon Activated Tianjin Co., Ltd. | |
| China Combi Works Oy Ltd | |
| China International Freight Co., Ltd. | |
| Cohesion Freight (HK) Ltd. | |
| Datong Juqiang Activated Carbon Co., Ltd. | |
| Datong Municipal Yunguang | |
| Datong Municipal Yunguang Activated Carbon Co., Ltd. | |
| De Well Container Shipping Corp. | |
| Derun Charcoal Carbon Co., Ltd. | |
| Endurance Cargo Management Co., Ltd. | |
| Envitek (China) Ltd. | |
| Excel Shipping Co., Ltd. | |
| Fujian Xinsen Carbon Co., Ltd. | |
| Fuzhou Yihuan Carbon Co., Ltd. | |
| Fuzhou Yuemengfeng Trade Co., Ltd. | |
| Gongyi City Bei Shan Kou Water Purification Materials Factory | |
| Guangdong Hanyan Activated Carbon Manufacturing Co., Ltd. | |
| Guangzhou Four E'S Scientific Co., Ltd. | |
| Hangzhou Hengxing Activated Carbon | |

| | Period to be reviewed |
|---|---|
| Henan Dailygreen Trading Co., Ltd. | |
| Honour Lane Shipping Ltd. | |
| Ingevity Corp. | |
| Ingevity Performance Materials | |
| Jacobi Carbons AB | |
| Jacobi Carbons, Inc. | |
| Jacobi Carbons Industry (Tianjin) Co., Ltd. | |
| Jiangsu Kejing Carbon Fiber Co., Ltd. | |
| Jiangxi Yuanli Huaiyushan Active Carbon | |
| Jilin Bright Future Chemicals Co. | |
| Jilin Bright Future Chemicals Company, Ltd. | |
| King Freight International Corp. | |
| M Chemical Company, Inc. | |
| Meadwestvaco Trading (Shanghai) | |
| Muk Chi Trade Co., Ltd. | |
| Nanping Yuanli Active Carbon Co. | |
| Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd. | |
| Ningxia Huahui Activated Carbon Co., Ltd. | |
| Ningxia Mineral & Chemical Ltd. | |
| Pacific Star Express (China) Company Ltd. | |
| Panalpina World Transport (Prc) Ltd. | |
| Pingdingshan Green Forest Activated Carbon Factory | |
| Pingdingshan Lvlin Activated Carbon Co., Ltd. | |
| Pudong Prime International Logistics | |
| Safround Logistics Co. | |
| Seatrade International Transportation | |
| Shanghai Caleb Industrial Co. Ltd. | |
| Shanghai Express Global International | |
| Shanghai Line Feng Int'l Transportation | |
| Shanghai Pudong International Transportation | |
| Shanghai Sunson Activated Carbon | |
| Shanghai Xinjinhu Activated Carbon | |
| Shanxi Dapu International Trade Co., Ltd. | |
| Shanxi DMD Corp. | |
| Shanxi Industry Technology Trading (ITT) | |
| Shanxi Industry Technology Trading Co., Ltd. | |
| Shanxi Sincere Industrial Co., Ltd. | |
| Shanxi Tianxi Purification Filter | |
| Shanxi Tianxi Purification Filter Co., Ltd. | |
| Shenzhen Calux Purification | |
| Shijiazhuang Tangju Trading Co. | |
| Sinoacarbon International Trading Co., Ltd. | |
| T.H.I. Group (Shanghai) Ltd. | |
| Tancarb Activated Carbon Co. | |
| Tancarb Activated Carbon Co., Ltd. | |
| The Ultimate Solid Logistics Ltd | |
| Tianjin Channel Filters Co., Ltd. | |
| Tianjin Jacobi International Trading Co., Ltd. | |
| Tianjin Maijin Industries Co., Ltd | |
| Translink Shipping Inc. | |
| Trans-Power International Logistics Co., Ltd. | |
| Triple Eagle Container Line | |
| U.S. United Logistics (Ningbo) Inc. | |
| Yusen Logistics Co., Ltd. | |
| Zhejiang Topc Chemical Industry | |
| Zhengzhou Zhulin Activated Carbon | |
| THE PEOPLE'S REPUBLIC OF CHINA: Certain Steel Threaded Rod, A–570–932 | 4/1/18–3/31/19 |
| Aerospace Precision Corp. (Shanghai) Industry Co., Ltd | |
| Aihua Holding Group Co. Ltd. | |
| Autocraft Industry (Shanghai) Ltd. | |
| Autocraft Industry Ltd. | |
| Billion Land Ltd. | |
| Billion Technology Ltd | |
| Billiongold Hardware Co. Ltd | |
| BOLT Mfg. Trade Ltd. | |
| Brighton Best International (Taiwan) Inc. | |
| Brother Holding Group Co. Ltd. | |
| C and H International Corporation | |
| Catic Fujian Co., Ltd. | |
| Cci International Ltd. | |
| Century Distribution Systems Inc | |
| Certified Products International Inc. | |
| Changshu City Standard Parts Factory | |
| China Friendly Nation Hardware Technology Limited | |

| | Period to be reviewed |
|---|---|
| D.M.D. International Co. Ltd. | |
| Da Cheng Hardware Products Co., Ltd. | |
| Dalian Xingxin Steel Fabrication | |
| Dongxiang Accuracy Hardware Co., Ltd. | |
| Ec International (Nantong) Co. Ltd. | |
| Fastco (Shanghai) Trading Co., Ltd. | |
| Fasten International Co., Ltd. | |
| Fastenal Canada Ltd. | |
| Fastwell Industry Co. Ltd. | |
| Fook Shing Bolts & Nuts Co. Ltd. | |
| Fuda Xiongzhen Machinery Co., Ltd. | |
| Fuller Shanghai Co. Ltd. | |
| Gem-Year Industrial Co. Ltd. | |
| Guangdong Honjinn Metal & Plastic Co., Ltd. | |
| Hainan Zhongyan United Development Co. | |
| Haining Hifasters Industrial Co. | |
| Haining Shende Imp. & Exp. Co. Ltd. | |
| Haining Zhongda Fastener Co., Ltd. | |
| Haiyan Ai&Lun Standard Fastener Co. | |
| Haiyan Chaoqiang Standard Fastener | |
| Haiyan Dayu Fasteners Co., Ltd. | |
| Haiyan Evergreen Standard Parts Co. Ltd. | |
| Haiyan Fuxin High Strength Fastener | |
| Haiyan Hatehui Machinery Hardware | |
| Haiyan Hurras Import & Export Co. Ltd. | |
| Haiyan Jianhe Hardware Co. Ltd. | |
| Haiyan Julong Standard Part Co. Ltd. | |
| Haiyan Shangchen Imp. & Exp. Co. | |
| Haiyan Yuxing Nuts Co. Ltd. | |
| Hangzhou Everbright Imp. & Exp. Co. Lt | |
| Hangzhou Grand Imp. & Exp. Co., Ltd. | |
| Hangzhou Great Imp. & Exp. Co. Ltd. | |
| Hangzhou Lizhan Hardware Co. Ltd. | |
| Hangzhou Prostar Enterprises Ltd. | |
| Hangzhou Tongwang Machinery Co., Ltd. | |
| Hilti (China) Ltd. | |
| Hong Kong Sunrise Fasteners Co. Ltd. | |
| Hong Kong Yichen Co. Ltd. | |
| Honoble Precision (China) Mfg. | |
| IFI & Morgan Ltd. | |
| Intech Industries Shanghai Co., Ltd. | |
| Jiangsu Innovo Precision Machinery | |
| Jiangsu Jinhuan Fastener Co., Ltd. | |
| Jiangsu Zhongweiyu Communication Equipment Co. Ltd. | |
| Jiashan Steelfit Trading Co. Ltd. | |
| Jiashan Zhongsheng Metal Products Co., Ltd. | |
| Jiaxing Allywin Mfg. Co., Ltd. | |
| Jiaxing Brother Standard Part Co., Ltd | |
| Jiaxing Chinafar Standard | |
| Jiaxing Jinhow Import & Export Co., Ltd. | |
| Jiaxing Sini Fastener Co., Ltd. | |
| Jiaxing Xinyue Standard Part Co. Ltd. | |
| Jiaxing Yaoliang Import & Export Co. Ltd. | |
| Jinan Banghe Industry & Trade Co., Ltd. | |
| Kinfast Hardware (Shenzhen) Ltd. | |
| King Socket Screw Company Ltd. | |
| L&W Fasteners Company | |
| Macropower Industrial Inc. | |
| Mai Seng International Trading Co., Ltd. | |
| MB Services Company | |
| Midas Union Co., Ltd. | |
| Nanjing Prosper Import & Export Corporation Ltd. | |
| Nantong Runyou Metal Products | |
| New Pole Power System Co. Ltd. | |
| Ningbiao Bolts & Nuts Manufacturing Co. | |
| Ningbo Abc Fasteners Co., Ltd. | |
| Ningbo Beilun Milfast Metalworks Co. Ltd. | |
| Ningbo Beilun Pingxin Hardware Co., Ltd. | |
| Ningbo Dexin Fastener Co. Ltd. | |
| Ningbo Dongxin High-Strength Nut Co., Ltd. | |
| Ningbo Exact Fasteners Co., Ltd. | |
| Ningbo Fastener Factory | |
| Ningbo Fengya Imp. and Exp. Co. Ltd. | |
| Ningbo Fourway Co., Ltd. | |

| | Period to be reviewed |
|---|---|
| Ningbo Haishu Holy Hardware Import and Export Co. Ltd. | |
| Ningbo Haishu Wit Import & Export Co. Ltd. | |
| Ningbo Haishu Yixie Import & Export Co. Ltd. | |
| Ningbo Jinding Fastening Piece Co., Ltd. | |
| Ningbo MPF Manufacturing Co. Ltd. | |
| Ningbo Panxiang Imp. & Exp. Co. Ltd. | |
| Ningbo Qianjiu Instrument Case Factory | |
| Ningbo Seduno Imp. Exp. Co., Ltd. | |
| Ningbo Yili Import & Export Co., Ltd. | |
| Ningbo Yinzhou Dongxiang Accuracy Hardware Co., Ltd. | |
| Ningbo Yinzhou Foreign Trade Co., Ltd. | |
| Ningbo Yinzhou Woafan Industry & Trade Co., Ltd. | |
| Ningbo Zhenghai Yongding Fastener Co., Ltd. | |
| Ningbo Zhenhai Beisuda Equipment Co. | |
| Ningbo Zhenhai Dingli Fastener Screw Co., Ltd. | |
| Ningbo Zhenhai Jinhuan Fasteners | |
| Ningbo Zhongjiang High Strength Bolts Co. Ltd. | |
| Ningbo Zhongjiang Petroleum Pipes & Machinery Co. Ltd. | |
| Orient International Holding Shanghai Rongheng Intl Trading Co. Ltd. | |
| Orient Rider Corporation Ltd. | |
| Panxiang Imp. & Exp. Co., Ltd. | |
| Pol Shin Fastener (Zhejiang) Co. | |
| Prosper Business and Industry Co., Ltd. | |
| Qingdao Free Trade Zone Health Intl. | |
| Qingdao Top Steel Industrial Co. Ltd. | |
| RMB Fasteners Ltd. | |
| Sampulse Industrial Co., Ltd. | |
| Shaanxi Succeed Trading Co., Ltd. | |
| Shanghai Autocraft Co., Ltd. | |
| Shanghai Beitra Fasteners Co., Ltd. | |
| Shanghai East Best Foreign Trade Co. | |
| Shanghai East Best International Business Development Co., Ltd. | |
| Shanghai E-Heng Imp. & Exp. Co. Ltd. | |
| Shanghai Fortune International Co. Ltd. | |
| Shanghai Furen International Trading | |
| Shanghai Hunan Foreign Economic Co., Ltd. | |
| Shanghai Jiabao Trade Development Co. Ltd. | |
| Shanghai Nanshi Foreign Economic Co. | |
| Shanghai Overseas International Trading Co. Ltd. | |
| Shanghai Prime Machinery Co. Ltd. | |
| Shanghai Printing & Dyeing and Knitting Mill | |
| Shanghai Printing & Packaging Machinery Corp | |
| Shanghai Recky International Trading Co., Ltd. | |
| Shanghai Sinotex United Corp. Ltd. | |
| Shanghai Strong Hardware Co. Li | |
| Shanghai Wisechain Fasteners Ltd. | |
| Shenzhen Fenda Technology Co., Ltd. | |
| Shenzhen Haozhenghao Technology Co. | |
| Shijiazhuang Huitongxiang Li Trade | |
| Soyoung Industrial Co., Ltd. | |
| SRC Metal (Shanghai) Co. Ltd. | |
| Suntec Industries Co., Ltd. | |
| Suzhou Henry International Trading Co., Ltd. | |
| T and C Fastener Co. Ltd. | |
| T and L Industry Co. Ltd. | |
| Taizhou Maixing Machinery Co. | |
| Telsto Development Co., Ltd. | |
| The Hoffman Group International | |
| Tianjin Port Free Trade Zone Tianjin Star International Trade Co., Ltd. | |
| Tong Ming Enterprise Co., Ltd. | |
| Tong Win International Co., Ltd. | |
| Tri Steel Co., Ltd. | |
| Wisechain Trading Limited | |
| Wuxi Metec Metal Co. Ltd. | |
| Xiamen Hua Min Imp. and Exp. Co. Ltd. | |
| Xiamen Rongxinda Industry Co., Ltd. | |
| Xiamen Yuhui Import & Export Co., Ltd. | |
| Yogendra International | |
| Yuyao Hualun Imp. & Exp. Co., Ltd. | |
| Zhangjiagang Ever Faith Industry Co. | |
| Zhejiang Heirrmu Mechanical and Electrical Equipment Manufacturing Co Ltd. | |
| Zhejiang Heiter Industries Co., Ltd, | |
| Zhejiang Heiter Mfg & Trade Co. Ltd. | |
| Zhejiang Jin Zeen Fasteners Co. Ltd. | |

| | Period to be reviewed |
|---|---|
| Zhejiang Junyue Standard Part Co., Ltd. | |
| Zhejiang Junyue Standard Parts Co., Ltd. | |
| Zhejiang Laibao Precision Technology Co. Ltd. | |
| Zhejiang Metals & Minerals Imp & Exp Co. Ltd. | |
| Zhejiang Morgan Brother Technology Co. Ltd. | |
| Zhejiang New Century Imp & Exp Co. Ltd. | |
| Zhejiang New Oriental Fastener Co., Ltd. | |
| Zhejiang Zhenglian Industry Development Co., Ltd. | |
| Zhongsheng Metal Co., Ltd. | |
| Zhoushan Zhengyuan Standard Parts Co., Ltd. | |
| THE PEOPLE'S REPUBLIC OF CHINA: Drawn Stainless Steel Sinks, A–570–983 | 4/1/18–3/31/19 |
| B&R Industries Limited | |
| Feidong Import and Export Co., Ltd. | |
| Foshan Shunde MingHao Kitchen Utensils Co., Ltd. | |
| Foshan Zhaoshun Trade Co., Ltd | |
| Franke Asia Sourcing Ltd. | |
| Grand Hill Work Company | |
| Guangdong Dongyuan Kitchenware Industrial Co., Ltd. | |
| Guangdong G-Top Import & Export Co., Ltd. | |
| Guangdong New Shichu Import & Export Company Limited | |
| Guangdong Yingao Kitchen Utensils Co., Ltd. | |
| Hangzhou Heng's Industries Co., Ltd. | |
| Hubei Foshan Success Imp & Exp Co. Ltd. | |
| J&C Industries Enterprise Limited | |
| Jiangmen Hongmao Trading Co., Ltd | |
| Jiangmen New Star Hi-Tech Enterprise Ltd. | |
| Jiangmen Pioneer Import & Export Co., Ltd. | |
| Jiangxi Zoje Kitchen & Bath Industry Co., Ltd. | |
| KaiPing Dawn Plumbing Products, Inc | |
| Ningbo Afa Kitchen and Bath Co., Ltd. | |
| Ningbo Oulin Kitchen Utensils Co., Ltd. | |
| Primy Cooperation Limited | |
| Shenzhen Kehuaxing Industrial Ltd. | |
| Shunde Foodstuffs Import & Export Company Limited of Guangdong | |
| Shunde Native Produce Import and Export Co., Ltd. of Guangdong | |
| Xinhe Stainless Steel Products Co., Ltd. | |
| Yuyao Afa Kitchenware Co., Ltd. | |
| Zhongshan Newecan Enterprise Development Corporation | |
| Zhongshan Silk Imp. & Exp. Group Co., Ltd. of Guangdong | |
| Zhongshan Superte Kitchenware Co., Ltd | |
| Zhuhai Kohler Kitchen & Bathroom Products Co. Ltd. | |
| THE PEOPLE'S REPUBLIC OF CHINA: Magnesium Metal, A–570–896 | 4/1/18–3/31/19 |
| Tianjin Magnesium International Co., Ltd. | |
| Tianjin Magnesium Metal Co., Ltd. | |
| THE PEOPLE'S REPUBLIC OF CHINA: Multilayered Wood Flooring,[5] A–570–970 | 12/1/17–11/30/18 |
| THE PEOPLE'S REPUBLIC OF CHINA: Stainless Steel Sheet and Strip, A–570–042 | 4/1/18–3/31/19 |
| Ahonest Changjiang Stainless Co., Ltd. | |
| Angang Hanyang Stainless Steel Corp. (LISCO) | |
| Angang Guangzhou Stainless Steel Corporation (LISCO) | |
| Anping Yuanjing Metal Products Co., Ltd. | |
| Apex Industries Corporation | |
| Baofeng Xianglong Stainless Steel (aka Baofeng Steel Group Co.) | |
| Baojing Steel Ltd. | |
| Baosteel Stainless Steel Co., Ltd. | |
| Baosteel Desheng Stainless Steel Co., Ltd. | |
| Baotou Huayong Stainless Steel Co., Ltd. | |
| Beihai Chengde Ferronickel Stainless Steel | |
| Beijing Dayang Metal Industry Co. | |
| Beijing Hengsheng Tongda Stainless Steel | |
| Beijing Jingnanfang Decoration Engineering Co., Ltd. | |
| Benxi Iron and Steel | |
| Chain Chon Metal (Kunshan) | |
| Chain Chon Metal (Foshan) | |
| Changhai Stainless Steel | |
| Changzhou General Import and Export | |
| Changzhou Taiye Sensing Technology Co., Ltd. | |
| Compart Precision Co. | |
| Dalian Yirui Import and Export Agent Co., Ltd. | |
| Daming International Import and Export Co., Ltd. | |
| Dongbei Special Steel Group Co., Ltd. | |
| Double Stone Steel | |
| Etco (China) International Trading Co., Ltd. | |
| FHY Corporation | |
| Foshan Foreign Economic Enterprise | |

| | Period to be reviewed |
|---|---|
| Foshan Hermes Steel Co., Ltd. | |
| Foshan Jinfeifan Stainless Steel Co. | |
| Foshan Topson Stainless Steel Co. | |
| Fugang Group | |
| Fujian Fuxin Special Steel Co., Ltd. | |
| Fujian Kaixi Stainless Steel | |
| Fujian Wuhang STS Products Co., Ltd. | |
| Gangzhan Steel Developing Co., Ltd. | |
| Globe Express Services Co., Ltd. | |
| Golden Fund International Trading Co. | |
| Guangdong Forward Metal Supply Chain Co., Ltd. | |
| Guangdong Guangxin Suntec Metal Holdings Co., Ltd. | |
| Guanghan Tiancheng Stainless Steel Products Co., Ltd. | |
| Guangxi Beihai Chengde Group | |
| Guangxi Wuzhou Jinhai Stainless Steel Co. | |
| Guangzhou Eversunny Trading Co., Ltd. | |
| Haimen Senda Decoration Material Co. | |
| Hanyang Stainless Steel Co. (LISCO) | |
| Hebei Iron & Steel | |
| Henan Tianhong Metal (Subsidiary of Foshan Mellow Stainless Steel Company) | |
| Henan Xinjinhui Stainless Steel Co., Ltd. (aka Jinhui Group) | |
| Huadi Steel Group Co., Ltd. | |
| Ideal Products of Dongguan Ltd. | |
| Irestal Shanghai Stainless Pipe (ISSP) | |
| Jaway Metal Co., Ltd. | |
| Jiangdu Ao Jian Sports Apparatus Factory | |
| Jiangsu Daming Metal Products Co., Ltd. | |
| Jiangsu Jihongxin Stainless Steel Co., Ltd. | |
| Jiaxing Winner Import and Export Co., Ltd. | |
| Jiaxing Zhongda Import and Export Co., Ltd. | |
| Jieyang Baowei Stainless Steel Co., Ltd. | |
| Jinyun Xinyongmao | |
| Jiuquan Iron & Steel (JISCO) | |
| Kuehne & Nagel, Ltd. (Ningbo) | |
| Lianzhong Stainless Steel Corp. (LISCO) | |
| Lu Qin (Hong Kong) Co., Ltd. | |
| Maanshan Sungood Machinery Equipment Co., Ltd. | |
| Minmetals Steel Co., Ltd. | |
| Nanhi Tengshao Metal Manufacturing Co. | |
| NB (Ningbo) Rilson Export & Import Corp. | |
| Ningbo Baoxin Stainless Steel Co., Ltd. | |
| Ningbo Bestco Import & Export Co., Ltd. | |
| Ningbo Bingcheng Import & Export Co., Ltd. | |
| Ningbo Chinaworld Grand Import & Export Co., Ltd. | |
| Ningbo Dawon Resources Co., Ltd. | |
| Ningbo Economic and Technological Development Zone (Beilun Xiapu) | |
| Ningbo Hog Slat Trading Co., Ltd. | |
| Ningbo New Hailong Import & Export Co. | |
| Ningbo Polaris Metal Products Co. | |
| Ningbo Portec Sealing Component | |
| Ningbo Qiyi Precision Metals Co., Ltd. | |
| Ningbo Seduno Import & Export Co., Ltd. | |
| Ningbo Sunico International Ltd. | |
| Ningbo Swoop Import & Export | |
| Ningbo Yaoyi International Trading Co., Ltd. | |
| Onetouch Business Service, Ltd. | |
| Qianyuan Stainless Steel | |
| Qingdao-Pohang Stainless Steel (QPSS) | |
| Qingdao Rising Sun International Trading Co., Ltd. | |
| Qingdao Sincerely Steel | |
| Rihong Stainless Co., Ltd. | |
| Ruitian Steel | |
| Samsung Precision Stainless Steel (Pinghu) Co., Ltd. | |
| Sejung Sea & Air Co., Ltd. | |
| Shandong Huaye Stainless Steel Group Co., Ltd. | |
| Shandong Mengyin Huarun Imp and Exp Co., Ltd. | |
| Shandong Mingwei Stainless Steel Products Co., Ltd. | |
| Shanghai Dongjing Import & Export Co. | |
| Shanghai Fengye Industry Co., Ltd. | |
| Shanghai Ganglian E-Commerce Holdings Co., Ltd. | |
| Shanghai Krupp Stainless (SKS) | |
| Shanghai Metal Corporation | |
| Shanghai Tankii Alloy Material Co., Ltd. | |
| Shanxi Taigang Stainless Steel Co., Ltd. (TISCO) | |

| | Period to be reviewed |
|---|---|
| Shaoxing Andrew Metal Manufactured Co., Ltd. | |
| Shenzhen Brilliant Sign Co., Ltd. | |
| Shaoxing Yuzhihang Import & Export Trade Co., Ltd. | |
| Shenzhen Wide International Trade Co., Ltd. | |
| Sichuan Southwest Stainless Steel | |
| Sichuan Tianhong Stainless Steel | |
| Sino Base Metal Co., Ltd. | |
| Suzhou Xinchen Precision Industrial Materials Co., Ltd. | |
| Taishan Steel | |
| Taiyuan Accu Point Technology, Co., Ltd. | |
| Taiyuan Iron & Steel (TISCO) | |
| Taiyuan Ridetaixing Precision Stainless Steel Incorporated Co., Ltd. | |
| Taizhou Durable Hardware Co., Ltd. | |
| Tiancheng Stainless Steel Products | |
| Tianjin Fulida Supply Co., Ltd. | |
| Tianjin Hongji Stainless Steel Products Co., Ltd. | |
| Tianjin Jiuyu Trade Co., Ltd. | |
| Tianjin Taigang Daming Metal Product Co., Ltd. | |
| Tianjin Teda Ganghua Trade Co., Ltd. | |
| Tianjin Tianchengjida Import & Export Trade Co., Ltd. | |
| Tianjin Tianguan Yuantong Stainless Steel | |
| TISCO Stainless Steel (HK), Ltd. | |
| Top Honest Stainless Steel Co., Ltd. | |
| TPCO Yuantong Stainless Steel Ware | |
| Tsingshan Qingyuan | |
| World Express Freight Co., Ltd. | |
| Wuxi Baochang Metal Products Co., Ltd. | |
| Wuxi Fangzhu Precision Materials Co. | |
| Wuxi Grand Tang Metal Co., Ltd. | |
| Wuxi Jinyate Steel Co., Ltd. | |
| Wuxi Joyray International Corp. | |
| Wuxi Shuoyang Stainless Steel Co., Ltd. | |
| Xiamen Lizhou Hardware Spring Co., Ltd. | |
| Xinwen Mining | |
| Henan Xuyuan Stainless Steel Co., Ltd. | |
| Yieh Corp., Ltd. | |
| Yongjin Metal Technology | |
| Yuyao Purenovo Stainless Steel Co., Ltd. | |
| Zhangjiagang Pohang Stainless Steel Co., Ltd. (ZPSS) | |
| Zhejiang Baohong Stainless Steel Co., Ltd. | |
| Zhejiang Huashun Metals Co., Ltd. | |
| Zhejiang Jaguar Import & Export Co., Ltd. | |
| Zhejiang New Vision Import & Export | |
| Zhejiang Yongjin Metal Technology Co., Ltd. | |
| Zhengzhou Mingtai Industry Co., Ltd. | |
| Zhenjiang Huaxin Import & Export | |
| Zhenjiang Yongyin Metal Tech Co. | |
| Zhenshi Group Eastern Special Steel Co., Ltd. | |
| Zun Hua City Transcend Ti-Gold | |
| **Countervailing Duty Proceedings** | |
| INDIA: Fine Denier Polyester Staple Fiber,[6] C–533–876 | 11/6/17–12/31/18 |
| THE PEOPLE'S REPUBLIC OF CHINA: Aluminum Foil, C–570–054 | 8/14/18–12/31/18 |
| Alcha International Holdings Limited | |
| Baotou Alcha Aluminum Co., Ltd. | |
| Dingsheng Aluminum Industries (Hong Kong) Trading Co. Ltd. | |
| Granges Aluminum (Shanghai) Co., Ltd. | |
| Guangxi Baise Xinghe Aluminum Industry Co., Ltd. | |
| Hangzhou DingCheng Aluminum Co., Ltd. | |
| Hangzhou Dingsheng Import & Export Co. Ltd. | |
| Hangzhou Dingsheng Industrial Group Co., Ltd. | |
| Hangzhou Five Star Aluminum Co., Ltd. | |
| Hangzhou Teemful Aluminum Co., Ltd. | |
| Huafon Nikkei Aluminium Corporation | |
| Hunan Suntown Marketing Limited | |
| Inner Mongolia Liansheng New Energy Material Joint-Stock Co., Ltd. | |
| Jiangsu Alcha Aluminum Co., Ltd. | |
| Jiangsu Dingsheng New Materials Joint-Stock Co. Ltd. | |
| Jiangsu Huafeng Aluminum Industry Co., Ltd. | |
| Jiangsu Zhongii Lamination Materials Stock Co., Ltd. | |
| Jiangsu Zhongji Lamination Materials Co., Ltd. | |
| Jiangsu Zhongji Lamination Materials Co., (HK) Limited | |
| Jiangyin Dolphin Pack Ltd. Co. | |
| Luoyang Longding Aluminium Industries Co., Ltd. | |
| Manakin Industries, LLC | |

| | Period to be reviewed |
|---|---|
| Shandong Yuanrui Metal Material Co., Ltd. | |
| Shanghai Shenyan Packaging Materials Co., Ltd. | |
| Shantou Wanshun Package Material Stock Co., Ltd. | |
| SNTO International Trade Limited | |
| Suntown Technology Group Limited | |
| Suzhou Manakin Aluminum Processing Technology Co., Ltd. | |
| Walson (HK) Trading Co., Limited | |
| Walson (HK) Trading Co., Ltd. | |
| Xiamen Xiashun Aluminium Foil Co., Ltd. | |
| Yantai Donghai Aluminum Foil Co., Ltd. | |
| Yantai Jintai International Trade Co., Ltd. | |
| Yinbang Clad Material Co., Ltd. | |
| Zhejiang Zhongjin Aluminum Industry Co., Ltd. | |
| THE PEOPLE'S REPUBLIC OF CHINA: Stainless Steel Sheet and Strip, C–570–043 | 1/1/18–12/31/18 |
| Ahonest Changjiang Stainless Co., Ltd. | |
| Angang Hanyang Stainless Steel Corp. (LISCO) | |
| Angang Guangzhou Stainless Steel Corporation (LISCO) | |
| Anping Yuanjing Metal Products Co., Ltd. | |
| Apex Industries Corporation | |
| Baofeng Xianglong Stainless Steel (aka Baofeng Steel Group Co.) | |
| Baojing Steel Ltd. | |
| Baosteel Stainless Steel Co., Ltd. | |
| Baosteel Desheng Stainless Steel Co., Ltd. | |
| Baotou Huayong Stainless Steel Co., Ltd. | |
| Beihai Chengde Ferronickel Stainless Steel | |
| Beijing Dayang Metal Industry Co. | |
| Beijing Hengsheng Tongda Stainless Steel | |
| Beijing Jingnanfang Decoration Engineering Co., Ltd. | |
| Benxi Iron and Steel | |
| Chain Chon Metal (Kunshan) | |
| Chain Chon Metal (Foshan) | |
| Changhai Stainless Steel | |
| Changzhou General Import and Export | |
| Changzhou Taiye Sensing Technology Co., Ltd. | |
| Compart Precision Co. | |
| Dalian Yirui Import and Export Agent Co., Ltd. | |
| Daming International Import and Export Co., Ltd. | |
| Dongbei Special Steel Group Co., Ltd. | |
| Double Stone Steel | |
| Etco (China) International Trading Co., Ltd. | |
| FHY Corporation | |
| Foshan Foreign Economic Enterprise | |
| Foshan Hermes Steel Co., Ltd. | |
| Foshan Jinfeifan Stainless Steel Co. | |
| Foshan Topson Stainless Steel Co. | |
| Fugang Group | |
| Fujian Fuxin Special Steel Co., Ltd. | |
| Fujian Kaixi Stainless Steel | |
| Fujian Wuhang STS Products Co., Ltd. | |
| Gangzhan Steel Developing Co., Ltd. | |
| Globe Express Services Co., Ltd. | |
| Golden Fund International Trading Co. | |
| Guangdong Forward Metal Supply Chain Co., Ltd. | |
| Guangdong Guangxin Suntec Metal Holdings Co., Ltd. | |
| Guanghan Tiancheng Stainless Steel Products Co., Ltd. | |
| Guangxi Beihai Chengde Group | |
| Guangxi Wuzhou Jinhai Stainless Steel Co. | |
| Guangzhou Eversunny Trading Co., Ltd. | |
| Haimen Senda Decoration Material Co. | |
| Hanyang Stainless Steel Co. (LISCO) | |
| Hebei Iron & Steel | |
| Henan Tianhong Metal (Subsidiary of Foshan Mellow Stainless Steel Company) | |
| Henan Xinjinhui Stainless Steel Co., Ltd. (aka Jinhui Group) | |
| Huadi Steel Group Co., Ltd. | |
| Ideal Products of Dongguan Ltd. | |
| Irestal Shanghai Stainless Pipe (ISSP) | |
| Jaway Metal Co., Ltd. | |
| Jiangdu Ao Jian Sports Apparatus Factory | |
| Jiangsu Daming Metal Products Co., Ltd. | |
| Jiangsu Jihongxin Stainless Steel Co., Ltd. | |
| Jiaxing Winner Import and Export Co., Ltd. | |
| Jiaxing Zhongda Import and Export Co., Ltd. | |
| Jieyang Baowei Stainless Steel Co., Ltd. | |
| Jinyun Xinyongmao | |

| | Period to be reviewed |
|---|---|
| Jiuquan Iron & Steel (JISCO) | |
| Kuehne & Nagel, Ltd. (Ningbo) | |
| Lianzhong Stainless Steel Corp. (LISCO) | |
| Lu Qin (Hong Kong) Co., Ltd. | |
| Maanshan Sungood Machinery Equipment Co., Ltd. | |
| Minmetals Steel Co., Ltd. | |
| Nanhi Tengshao Metal Manufacturing Co. | |
| NB (Ningbo) Rilson Export & Import Corp. | |
| Ningbo Baoxin Stainless Steel Co., Ltd. | |
| Ningbo Bestco Import & Export Co., Ltd. | |
| Ningbo Bingcheng Import & Export Co., Ltd. | |
| Ningbo Chinaworld Grand Import & Export Co., Ltd. | |
| Ningbo Dawon Resources Co., Ltd. | |
| Ningbo Economic and Technological Development Zone (Beilun Xiapu) | |
| Ningbo Hog Slat Trading Co., Ltd. | |
| Ningbo New Hailong Import & Export Co. | |
| Ningbo Polaris Metal Products Co. | |
| Ningbo Portec Sealing Component | |
| Ningbo Qiyi Precision Metals Co., Ltd. | |
| Ningbo Seduno Import & Export Co., Ltd. | |
| Ningbo Sunico International Ltd. | |
| Ningbo Swoop Import & Export | |
| Ningbo Yaoyi International Trading Co., Ltd. | |
| Onetouch Business Service, Ltd. | |
| Qianyuan Stainless Steel | |
| Qingdao-Pohang Stainless Steel (QPSS) | |
| Qingdao Rising Sun International Trading Co., Ltd. | |
| Qingdao Sincerely Steel | |
| Rihong Stainless Co., Ltd. | |
| Ruitian Steel | |
| Samsung Precision Stainless Steel (Pinghu) Co., Ltd. | |
| Sejung Sea & Air Co., Ltd. | |
| Shandong Huaye Stainless Steel Group Co., Ltd. | |
| Shandong Mengyin Huarun Imp and Exp Co., Ltd. | |
| Shandong Mingwei Stainless Steel Products Co., Ltd. | |
| Shanghai Dongjing Import & Export Co. | |
| Shanghai Fengye Industry Co., Ltd. | |
| Shanghai Ganglian E-Commerce Holdings Co., Ltd. | |
| Shanghai Krupp Stainless (SKS) | |
| Shanghai Metal Corporation | |
| Shanghai Tankii Alloy Material Co., Ltd. | |
| Shanxi Taigang Stainless Steel Co., Ltd. (TISCO) | |
| Shaoxing Andrew Metal Manufactured Co., Ltd. | |
| Shenzhen Brilliant Sign Co., Ltd. | |
| Shaoxing Yuzhihang Import & Export Trade Co., Ltd. | |
| Shenzhen Wide International Trade Co., Ltd. | |
| Sichuan Southwest Stainless Steel | |
| Sichuan Tianhong Stainless Steel | |
| Sino Base Metal Co., Ltd. | |
| Suzhou Xinchen Precision Industrial Materials Co., Ltd. | |
| Taishan Steel | |
| Taiyuan Accu Point Technology, Co., Ltd. | |
| Taiyuan Iron & Steel (TISCO) | |
| Taiyuan Ridetaixing Precision Stainless Steel Incorporated Co., Ltd. | |
| Taizhou Durable Hardware Co., Ltd. | |
| Tiancheng Stainless Steel Products | |
| Tianjin Fulida Supply Co., Ltd. | |
| Tianjin Hongji Stainless Steel Products Co., Ltd. | |
| Tianjin Jiuyu Trade Co., Ltd. | |
| Tianjin Taigang Daming Metal Product Co., Ltd. | |
| Tianjin Teda Ganghua Trade Co., Ltd. | |
| Tianjin Tianchengjida Import & Export Trade Co., Ltd. | |
| Tianjin Tianguan Yuantong Stainless Steel | |
| TISCO Stainless Steel (HK), Ltd. | |
| Top Honest Stainless Steel Co., Ltd. | |
| TPCO Yuantong Stainless Steel Ware | |
| Tsingshan Qingyuan | |
| World Express Freight Co., Ltd. | |
| Wuxi Baochang Metal Products Co., Ltd. | |
| Wuxi Fangzhu Precision Materials Co. | |
| Wuxi Grand Tang Metal Co., Ltd. | |
| Wuxi Jinyate Steel Co., Ltd. | |
| Wuxi Joyray International Corp. | |
| Wuxi Shuoyang Stainless Steel Co., Ltd. | |

| | Period to be reviewed |
|---|---|
| Xiamen Lizhou Hardware Spring Co., Ltd.<br>Xinwen Mining<br>Henan Xuyuan Stainless Steel Co., Ltd.<br>Yieh Corp., Ltd.<br>Yongjin Metal Technology<br>Yuyao Purenovo Stainless Steel Co., Ltd.<br>Zhangjiagang Pohang Stainless Steel Co., Ltd. (ZPSS)<br>Zhejiang Baohong Stainless Steel Co., Ltd.<br>Zhejiang Huashun Metals Co., Ltd.<br>Zhejiang Jaguar Import & Export Co., Ltd.<br>Zhejiang New Vision Import & Export<br>Zhejiang Yongjin Metal Technology Co., Ltd.<br>Zhengzhou Mingtai Industry Co., Ltd.<br>Zhenjiang Huaxin Import & Export<br>Zhenjiang Yongyin Metal Tech Co.<br>Zhenshi Group Eastern Special Steel Co., Ltd.<br>Zun Hua City Transcend Ti-Gold | |
| **Suspension Agreements** | |
| None. | |

## Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

## Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

## Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

## Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[7] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[8] Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with

[5] Commerce initiated an administrative review of Baroque Timber Industries (Zhongshan) Co., Ltd. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 18777 (May 2, 2019). On April 23, 2014, the United States Court of International Trade (CIT) entered its final judgement in *Baroque Timber Industries (Zhongshan) Company, Limited, et. al.* v. *United States,* affirming the final determination redetermination with respect to the Samling Group pursuant to court order by the Department of Commerce pertaining to the less-than-fair-value investigation on multilayered wood flooring from the People's Republic of China. Pursuant to that CIT decision, effective May 2, 2014, Commerce excluded from the antidumping order multilayered wood flooring that is produced and exported by the Samling Group, which includes Baroque Timber Industries (Zhongshan) Co., Ltd. *See Multilayered Wood Flooring from the People's Republic of China: Notice of Court Decision Not in Harmony with the Final Determination and Amended Final Determination of the Antidumping Duty Investigation,* 79 FR 25109 (May 2, 2014). Thus, Commerce is initiating an administrative review only on entries where Baroque Timber Industries (Zhongshan) Co., Ltd. was the exporter but not the producer of subject merchandise.

[6] In the initiation notice that published on May 29, 2019 (84 FR 24743) Commerce inadvertently listed the wrong case number for referenced case above. The correct case number is listed in this notice.

[7] *See* section 782(b) of the Act.

[8] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

applicable revised certification requirements.

**Extension of Time Limits Regulation**

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. *See* 19 CFR 351.302. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) Q&V questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: June 7, 2019.

**James Maeder,**

*Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2019–12502 Filed 6–12–19; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648–XH061

### Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Pacific Fishery Management Council's (Pacific Council) Southern Resident Killer Whale (SRKW) Workgroup (Workgroup) will convene two meetings, which are open to the public.

**DATES:** The first meeting, to be held via webinar, will convene on Tuesday, July 2, 2019, from 1 p.m. to 3 p.m. Pacific Daylight Time (PDT), or until business for the day has been completed.

The second meeting, to be held in person, will convene Tuesday, July 23, 2019, from 10 a.m. to 5 p.m. PDT, or until business for the day has been completed. It will continue on Wednesday, July 24, 2019, from 9 a.m. to 2 p.m. PDT, or until business for the day has been completed.

**ADDRESSES:** The July 2 meeting will be held via webinar. A public listening station is available at the Pacific Council office (address below). To attend the webinar (1) join the webinar by visiting this link *https://www.gotomeeting.com/webinar* (click ''Join a Webinar'' in top right corner of page), (2) enter the Webinar ID: 526–133–259, and (3) enter your name and email address (required). After logging in to the webinar, please (1) dial this TOLL number 1–914–614–3221 (not a toll-free number), (2) enter the attendee phone audio access code 294–147–773, and (3) enter the provided audio PIN after joining the webinar. You must enter this PIN for audio access. NOTE: We have disabled Mic/Speakers as an option and require all participants to use a telephone or cell phone to participate. Technical Information and system requirements: PC-based attendees are required to use Windows® 10, 8, 7, Vista, or XP; Mac®-based attendees are required to use Mac OS® X 10.5 or newer; Mobile attendees are required to use iPhone®, iPad®, Android™ phone or Android tablet (See *https://www.gotomeeting.com/webinar/ipad-iphone-android-webinar-apps.*) You may send an email to Ms. Sandra Krause at *Sandra.Krause@noaa.gov* or contact her at (503) 820–2280, extension 419 for technical assistance. A public listening station will also be available at the Pacific Council office.

*Council address:* Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

The July 23–24 meeting will be held in the Hemlock/Oak Room at the Hilton Vancouver Hotel, 301 W Sixth Street, Vancouver, Washington 98660; telephone: (360) 993–4500.

**FOR FURTHER INFORMATION CONTACT:** Robin Ehlke, Pacific Council; telephone: (503) 820–2410.

**SUPPLEMENTARY INFORMATION:**

July 2 (webinar)—The purpose of the webinar is to update all Workgroup members on relevant proceedings from the June 2019 Pacific Council meeting, and continue discussions on the data needs and progress in developing a draft risk analysis. The Workgroup may also discuss their work plan and progress made on assigned tasks related to the Workgroup's prime objective of reassessing the effects of Pacific Council-area ocean salmon fisheries on the Chinook salmon prey base of SRKW. This is a public meeting and not a public hearing. Public comments will be taken at the discretion of the Workgroup co-chairs as time allows.

July 23–24 (in-person)—The purpose of the meeting is to continue work on the draft risk analysis, and provide any updates or additional status information that may address data gaps and questions identified at the May 23–24, and the July 2, 2019 meetings. The Workgroup may also discuss their work plan and progress made on assigned tasks related to the Workgroup's prime objective of reassessing the effects of Pacific Council-area ocean salmon fisheries on the Chinook salmon prey base of SRKW. Additional topics of discussion may include, but are not limited to, the criteria and methodology developed to evaluate risk, and scoping of management/conservation tools may be included in the discussion if warranted. This is a public meeting and not a public hearing. Public comments will be taken at the discretion of the Workgroup co-chairs as time allows.

**Background**

At the March 2019 Pacific Council meeting, the National Marine Fisheries Service (NMFS) announced plans to reinitiate Endangered Species Act (ESA) consultation on the effect of Pacific Council-area ocean salmon fisheries on SRKW. NMFS and the Pacific Council agreed on a collaborative approach and began establishing work plans and a tentative schedule. At the April 2019 meeting, the Pacific Council formed the

Workgroup to reassess the effects of Pacific Council-area ocean salmon fisheries on the Chinook salmon prey base of SRKW. A draft Terms of Reference was reviewed by the Pacific Council which describes the purpose of the Workgroup, a proposed timeline to accomplish this task, and a list of participants. Supporting documents can be found on the Pacific Council's website under the April 2019 Briefing Book (*https://www.pcouncil.org/resources/archives/briefing-books/april-2019-briefing-book,* Agenda Item F.3.a, Supplemental NMFS Report 1, April 2019 and Agenda Item D.6.a, Supplemental NMFS Report 1, April 2019). Materials presented during past Workgroup meetings may be found on the NMFS West Coast Regional website (*https://www.fisheries.noaa.gov/west-coast/southern-resident-killer-whales-and-fisheries-interaction-workgroup*).

Although non-emergency issues not contained in the meeting agendas may be discussed, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

## Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Sandra Krause, (503) 820–2419, at least 10 business days prior to the meeting date.

Dated: June 10, 2019.

**Tracey L. Thompson,**

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

[FR Doc. 2019–12516 Filed 6–12–19; 8:45 am]

BILLING CODE 3510–22–P

# DEPARTMENT OF DEFENSE

## Office of the Secretary

**[Transmittal No. 19–11]**

## Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Arms sales notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:** Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 19–11 with attached Policy Justification.

Dated: June 7, 2019.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

APR 15 2019

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 19-11 concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Taipei Economic and Cultural Representative Office in the United States (TECRO) for defense articles and services estimated to cost $500 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification

BILLING CODE 5001–06–C

Transmittal No. 19-11

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser*: Taipei Economic and Cultural Representative Office in the United States (TECRO)

(ii) *Total Estimated Value*:

| | |
|---|---|
| Major Defense Equipment * | $ 0 million |
| Other | $500 million |
| TOTAL | $500 million |

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase*:

*Major Defense Equipment (MDE)*: None

*Non-MDE*: Continuation of a pilot training program and maintenance/logistics support for F-16 aircraft currently at Luke Air Force Base, Arizona, to include flight training; participation in U.S. Government approved training exercises; inert/dummy training munitions; supply and maintenance support; spares and repair parts; support equipment; U.S. Government program management; publications; documentation; personnel training and training equipment; fuel and fueling services; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of program and logistical support necessary to sustain a long term CONUS training program.

(iv) *Military Department*: Air Force (TW-D-NHF)

(v) *Prior Related Cases, if any*: TW-D-NHA, TW-D-NHC, TW-D-NHD, TW-D-NHE

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid*: None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold*: None

(viii) *Date Report Delivered to Congress*: April 15, 2019

*As defined in Section 47(6) of the Arms Export Control Act.

*POLICY JUSTIFICATION*

*Taipei Economic and Cultural Representative Office in the United States (TECRO)—CONUS Based F-16 Training*

TECRO has requested a possible sale for the continuation of a pilot training program and maintenance/logistics support for F-16 aircraft currently at Luke Air Force Base, Arizona, to include flight training; participation in U.S. Government approved training exercises; inert/dummy training

munitions; supply and maintenance support; spares and repair parts; support equipment; U.S. Government program management; publications; documentation; personnel training and training equipment; fuel and fueling services; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of program and logistical support necessary to sustain a long-term CONUS training program. The total estimated program cost is $500 million.

This proposed sale is consistent with U.S. law and policy as expressed in Public Law 96-8.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security and defensive capability of the recipient, which has been and continues to be an important force for political stability, military balance, and economic progress in the region.

The recipient and the United States Air Force (USAF) will have the opportunity to fly together, which will support disaster relief missions, non-combatant evacuation operations, and other contingency situations. These services and equipment are used in the continuing pilot training program currently at Luke Air Force Base, Arizona. This program enables the recipient to develop mission ready and experienced pilots through CONUS training. The training provides a ''capstone'' course that takes experienced pilots and significantly improves their tactical proficiency. Training is a key component of combat effectiveness.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractors will be URS Federal Services, Inc., Germantown, MD and L3, Greenville, Texas. At this time, there are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to the recipient. The USAF will provide instruction, flight operations, maintenance support and facilities. Approximately 100 U.S. contractors will provide aircraft maintenance and logistics support for the F-16 aircraft.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2019–12431 Filed 6–12–19; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Transmittal No. 19–17]**

### Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Arms sales notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:** Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 19–17 with attached Policy Justification and Sensitivity of Technology.

Dated: June 10, 2019.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

MAY 0 3 2019

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 19-17 concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of the Czech Republic for defense articles and services estimated to cost $800 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001–06–C

Transmittal No. 19-17

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser*: Government of the Czech Republic

(ii) *Total Estimated Value*:

| | |
|---|---|
| Major Defense Equipment * .. | $450 million |
| Other ..... | $350 million |
| Total ..... | $800 million |

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase*: The Government of the Czech Republic has requested to buy twelve (12) UH-60M Black Hawk Helicopters in standard U.S. Government configuration with designated unique equipment and Government Furnished Equipment (GFE)

*Major Defense Equipment (MDE)*:

Twelve (12) UH-60M Black Hawk Helicopters with Designated Unique Equipment

Twenty-eight (28) T700-GE-701D Engines (24 installed and 4 spares)

Twenty-nine (29) H-764GU Embedded Global Positioning Systems with Inertial Navigation and Country Unique SAASM (24 installed and 5 spares)

Twenty-four (24) M240H Machine Guns

One-hundred fourteen (114) Advanced Precision Kill Weapon Systems (APKWS)

Fifteen (15) AN/AAR-57(V)3 Common Missile Warning System (CMWS) (12 installed and 3 spares)

*Non-MDE*:

Also included are four (4) Aviation Mission Planning Systems (AMPS), twenty-nine (29) AN/ARC-231 UHF/VHF Radios with RT-1808A, twenty-nine (29) AN/ARC-201D SINCGARS Airborne Radios System with RT-1478D, fifteen (15) AN/ARC-220(V)3 HF Radio, twelve (12) Federated Advanced Navigation System (FANS) with RNP/RNAV, fifteen (15) AN/APX-123 IFF with Mode 4/5 Transponder (12 installed and 3 spares), fifteen (15) AN/ARN-147(V) (12 installed and 3 spares), fifteen (15) AN/ARN-149(V) Automatic Digital Frequency (12 installed and 3 spares), fifteen (15) Tactical Airborne Navigation System (TACAN) AN/ARN-153 (12 installed and 3 spares), fifteen (15) AN/APR-39C(V)l/4 Radar Warning Receiver, fifteen (15) AN/AVR-2B(V) Laser Warning System (12 installed and 3 spares), sixty (60) Military Grade AN/AVS-6 Night Vision Goggles (NVGs), four (4) EBC-406HM Emergency Locator Transmitter (ELT), Aircraft Wireless Intercom System (AWIS), forty-eight (48) Machine Gun Mounts, twenty-four (24) M134D Mini Gun, four thousand (4,000) M-134 Inert Training Rounds, twenty-four (24) M-134 Power Supply Pack, twelve (12) GP-19 Machine Gun Pods, twelve (12) GAU-19B Machine

Guns, twenty-four (24) M-134 Power Supply Pack, one hundred forty-four (144) M-134 Spare Barrels, four thousand (4,000) M-134 Training Rounds, twelve (12) M-134 Mount Systems, twelve (12) Packaging Crating and Handling Mount System in Support of M-134, twelve (12) M261 Rocket Launchers, one hundred thousand (100,000) 7.62MM 4 Ball M80 1 Tracer M62 Linked, five hundred one thousand (501,000) Cartridge 7.62MM 4 Ball 1 Tracer, ten thousand (10,000) Cartridge 50 Caliber Ball, ten thousand (10,000) 50 Caliber 4 Ball 1 Tracer, ten thousand (10,000) Cartridge 50 Caliber 4 Armor Piercing Incendiary 1 Armor Piercing Incendiary Tracer Linked, three Hundred (300) Cartridge 25.4 Millimeter Decoy M839, four (4) Cartridge Impulse CCU-92/A, three hundred eighty-four (384) Rocket 2.75 Inch High Explosive Warhead M151 Fuze M423 Motor MK66-4, two hundred forty (240) Warhead 2.75 Inch Rocket M151HE, one hundred eighty (180) Rocket Motor 2.75 Inch MK66-4, four hundred (400) Flare Aircraft Countermeasure M206, Two (2) Airborne Command and Control Systems includes three (3) PRC-117s (two (2) as line-of-sight and one (1) as beyond line-of-sight, one (1) iridium phone, one (1) ROVER 4 (to UAS), DAGAR (GPS)), twelve (12) AN/APN-209 Radar Altimeter, twenty-four (24) Upturned Exhaust System, thirteen (13) MX-10D EO/IR Sensor with Laser Designator (12 and 1 spare), thirteen (13) IZLED 200 PIR Laser (12 installed and 1 spare), thirty (30) User Data Modules (UDM) for Common Missile Warning System (CMWS), Common Missile Warning System (CMWS) Classified Software Updates, Machine Gun Component Spare Parts, Operation Mission Data Set (MDS) in support of the AN/APR-39C(V)l/4, twelve (12) AN/AVS-7 Heads-Up Display, aircraft warranty, air worthiness support, calibration services, spare and repair parts, support equipment, communication equipment, weapons, ammunition, night vision devices, publications and technical documentation, personnel training and training devices, site surveys, tool and test equipment, U.S. Government and contractor technical and logistics support services, and other related elements of logistical and program support.

(iv) *Military Department*: Army (EZ-B-UEK)

(v) *Prior Related Cases, if any*: None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid*: None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold*: See Attached Annex

(viii) *Date Report Delivered to Congress*: May 3, 2019

* As defined in Section 47(6) of the Arms Export Control Act.

*POLICY JUSTIFICATION*

*Czech Republic—UH-60M Black Hawk Helicopters*

The Government of Czech Republic has requested to buy (12) UH-60M Black Hawk helicopters, with twenty-eight (28) T700-GE-701D engines (24 installed and 4 spares), twenty-nine (29) H-764GU Embedded Global Positioning Systems with Inertial Navigation and Country Unique SAASM (24 installed and 5 spares), twenty-four (24) M240H machine guns, one-hundred fourteen (114) Advanced Precision Kill Weapon Systems (APKWS), and fifteen (15) AN/AAR-57(V)3 Common Missile Warning System (CMWS) (12 installed and 3 spares). Also included are four (4) Aviation Mission Planning Systems (AMPS), twenty-nine (29) AN/ARC-231 UHF/VHF Radios with RT-1808A, twenty-nine (29) AN/ARC-201D SINCGARS Airborne Radios System with RT-1478D, fifteen (15) AN/ARC-220(V)3 HF Radio, twelve (12) Federated Advanced Navigation System (FANS) with RNP/RNAV, fifteen (15) AN/APX-123 IFF with Mode 4/5 Transponder (12 installed and 3 spares), fifteen (15) AN/ARN-147(V) (12 installed and 3 spares), fifteen (15) AN/ARN-149(V) Automatic Digital Frequency (12 installed and 3 spares), fifteen (15) Tactical Airborne Navigation System (TACAN) AN/ARN-153 (12 installed and 3 spares), fifteen (15) AN/APR-39C(V)l/4 Radar Warning Receiver, fifteen (15) AN/AVR-2B(V) Laser Warning System (12 installed and 3 spares), sixty (60) Military Grade AN/AVS-6 Night Vision Goggles (NVGs), four (4) EBC-406HM Emergency Locator Transmitter (ELT), Aircraft Wireless Intercom System (AWIS), forty-eight (48) Machine Gun Mounts, twenty-four (24) M134D Mini Gun, four thousand (4,000) M-134 Inert Training Rounds, twenty-four (24) M-134 Power Supply Pack, twelve (12) GP-19 Machine Gun Pods, twelve (12) GAU-19B Machine Guns, twenty-four (24) M-134 Power Supply Pack, one hundred forty-four (144) M-134 Spare Barrels, four thousand (4,000) M-134 Training Rounds, twelve (12) M-134 Mount Systems, twelve (12) Packaging Crating and Handling Mount System in Support of M-134, twelve (12) M261 Rocket Launchers, one hundred thousand (100,000) 7.62MM 4 Ball M80 1 Tracer M62 Linked, five hundred one thousand (501,000) Cartridge 7.62MM 4 Ball 1 Tracer, ten thousand (10,000) Cartridge 50 Caliber Ball, ten thousand (10,000) 50 Caliber 4 Ball 1 Tracer, ten thousand (10,000) Cartridge 50 Caliber 4 Armor Piercing Incendiary 1 Armor Piercing Incendiary Tracer Linked, three Hundred (300) Cartridge 25.4 Millimeter Decoy M839, four (4) Cartridge Impulse CCU-92/A, three hundred eighty-four (384) Rocket 2.75 Inch High Explosive Warhead M151 Fuze M423 Motor MK66-4, two hundred forty (240) Warhead 2.75 Inch Rocket M151HE, one hundred eighty (180) Rocket Motor 2.75 Inch MK66-4, four hundred (400) Flare Aircraft Countermeasure M206, Two (2) Airborne Command and Control Systems includes three (3) PRC-117s (two (2) as line-of-sight and one (1) as beyond line-of-sight, one (1) iridium phone, one (1) ROVER 4 (to UAS), DAGAR (GPS)), twelve (12) AN/APN-209 Radar Altimeter, twenty-four (24) Upturned Exhaust System, thirteen (13) MX-10D EO/IR Sensor with Laser Designator (12 and 1 spare), thirteen (13) IZLED 200 PIR Laser (12 installed and 1 spare), thirty (30) User Data Modules (UDM) for Common Missile Warning System (CMWS), Common Missile Warning System (CMWS) Classified Software Updates, Machine Gun Component Spare Parts, Operation Mission Data Set (MDS) in support of the AN/APR-39C(V)l/4, twelve (12) AN/AVS-7 Heads-Up Display, aircraft warranty, air worthiness support, calibration services, spare and repair parts, support equipment, communication equipment, weapons, ammunition, night vision devices, publications and technical documentation, personnel training and training devices, site surveys, tool and test equipment, U.S. Government and contractor technical and logistics support services, and other related elements of logistical and program support. The total estimated program cost is $800 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a NATO partner that is an important force for ensuring peace and stability in Europe. The proposed sale will support the Czech Republic's need for its own self-defense and support NATO defense goals.

The Czech Republic is considering either the UH-60M or the UH-1Y/AH-1Z to replace its aging Mi-24 helicopters. The Czech Republic intends to use these helicopters to modernize its armed forces and strengthen its homeland defense and deter regional threats. This will contribute to the Czech Republic's military goal of updating its capabilities

while further enhancing interoperability with the United States and NATO allies. The Czech Republic will have no difficulty absorbing these helicopters into its armed forces.

The proposed sale of this equipment will not alter the basic military balance in the region.

The principal contractors will be Sikorsky Aircraft Company, Stratford, Connecticut; and General Electric Aircraft Company (GEAC), Lynn, Massachusetts. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale may require the assignment of an additional three U.S. Government and five contractor representatives in country full-time to support the delivery and training for approximately two-five years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 19-17

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology*:

1. The UH-60M aircraft is a medium lift four bladed aircraft which includes two (2) T-701D Engines. The aircraft has four (4) Multifunction Displays (MFD), which provides aircraft system, flight, mission, and communication management systems. The instrumentation panel includes four (4) Multifunction Displays (MFDs), two (2) Pilot and Co-Pilot Flight Director Panels, and two (2) Data Concentrator Units (DCUs). The Navigation System will have Embedded GPS/INS (EGIs), and two (2) Advanced Flight Control Computer Systems (AFCC), which provide 4 axis aircraft control.

2. The H764-G EGI provides GPS and INS capabilities to the aircraft. The EGI will include Selective Availability anti-Spoofing Module (SAASM) security modules to be used for secure GPS PPS if required. The Embedded GPS/INS within the SAASM contains sensitive technology.

3. The Advanced Precision Kill Weapon Systems (APKWS) is a low cost semi-active laser guidance kit developed by BAE Systems which is added to current unguided 70 mm rocket motors and warheads similar to and including the Hydra 70 rocket. It is a low collateral damage weapon that can effectively strike both soft and lightly armored targets. APKWS turns a standard unguided 2.75 inch (70 mm) rocket into a precision laser-guided rocket, classification up to SECRET.

4. The AAR-57A Common Missile Warning System (CMWS) detects energy emitted by threat missile in-flight, evaluates potential false alarm emitters in the environment, declares validity of threat and selects appropriate counter-measures. The CMWS consists of an Electronic Control Unit (ECU), Electro-Optic Missile Sensors (EOMSs), and Sequencer and Improved Countermeasures Dispenser (ICMD). Reverse engineering is not a major concern. The ECU hardware is classified CONFIDENTIAL; releasable technical manuals for operation and maintenance are classified SECRET.

5. The AN/ARC-231, Very High Frequency/Ultra High Frequency (VHF/UHF), Line-of-Sight (LOS) Radio with frequency agile modes, Electronic counter-countermeasures (ECCM), UHF Satellite Communications (S ATCOM), Demand Assigned Multiple Access (DAMA), Integrated Waveform (IW), Air Traffic Control (ATC) channel spacing is operator selectable in 5, 8.33,12.5, and 25kHz steps. The antennas associated with this radio contain sensitive technology.

6. The AN/AVR-2B Laser Detecting Set is a passive laser warning system that receives, processes and displays threat information resulting from aircraft illumination by lasers on multi-functional display. The hardware is classified CONFIDENTIAL; releasable technical manuals for operation and maintenance are classified SECRET.

7. The AN/APR-39A Radar Signal Detecting Set is a system that provides warning of radar directed air defense threat and allows appropriate countermeasures. This is the 1553 databus compatible configuration. The hardware is classified CONFIDENTIAL when programmed with U.S. threat data; releasable technical manual for operation and maintenance are classified CONFIDENTIAL; releasable technical data (technical performance) is classified SECRET.

8. The AN/APX-123A, Identification Friend or Foe (IFF) Transponder, is a space diversity transponder and is installed on various military platforms. When installed in conjunction with platform antennas and the Remote Control Unit (or other appropriate control unit), the transponder provides identification, altitude and surveillance reporting in response to interrogations from airborne, ground-based and/or surface interrogators. This item is contains sensitive technology.

9. The AN/AVS-6 Aviator's Night Vision Goggle is a lightweight binocular that can be mounted to a variety of aviator helmets. The binocular offers high reliability and performance and enables rotary-wing aviators to conduct and complete night operations during the darkest nights of the year. This item contains sensitive technology.

10. The AN/ARC-201D, Single Channel Ground to Air Radio System (SINCGARS), is a tactical airborne radio subsystem that provides secure, anti-jam voice and data communication. The integration of COMSEC and the Data Rate Adapter (DRA) combines three Line Replaceable Units into one and reduces overall weight of the aircraft. Performance capabilities, ECM/ECCM specification and Engineering Change Orders (ECOs) are classified SECRET.

11. The AN/ARC-220 is a fully digital signal processing (DSP) high-frequency radio that gives you two-way communication over the 2.0000 to 29.9999 MHz high-frequency. The AN/ARC-220 also offers advanced communications features such as embedded Automatic Link Establishment (ALE), serial tone data modem and anti-jam (ECCM) functions that can be used for tactical rotary wing and fixed-wing applications.

12. The AN/ARN-149, Automatic Direction Finder (ADF) Receiver, is a low frequency radio that provides automatic compass bearing on any radio signal within the frequency range of 100 to 2199.5 kHz as well as navigation where a commercial AM broadcast signal is the only available navigation aid.

13. The AN/ARN-153, Tactical Airborne Navigation (TACAN) System, is a full featured navigational system that supports four modes of operation: receive mode; transmit receive mode; air-to-air receive mode; and air-to-air transmit-receive mode. The TACAN provides a minimum 500-watt transmit capability with selecting range ratios of 30:1 or 4:1 which is accomplished through the automatic gain control (AGC) enable/disable switch, the 1553 bus, or the RNAV (ARINC) input bus.

14. The AN/ARN-147, Very High Frequency (VHF) Omni Ranging/Instrument Landing System Receiver, that provides internal MIL-STD-1553B capability and is MIL-E-5400 class II qualified. It meets international operability requirements by providing 50-kHz channel spacing for 160-VOR and 40-localizer/glideslope channels.

15. The KIV-77, a Common IFF Applique Crypto Computer Identification, Friend or Foe (IFF) which maintains the crypto in a separate 3.5 in. x 4.25 in. x 1 in., 16-oz LRU allowing it to be removed and stored. This item is a Controlled Cryptographic Item (CCI).

16. The AN/PYQ-10(C) Simple Key Loader (SKL) is a ruggedized, portable, handheld fill device, for securely receiving, storing, and transferring data between compatible cryptographic and communications equipment. It supports both the DS-101 and DS-102 interfaces, as well as the KSD-64 Crypto Ignition Key and is backward-compatible with existing End Cryptographic Units (ECU) and forward-compatible with future security equipment and systems. This item is classified CONFIDENTIAL.

17. Common Missile Warning System (CMWS) User Data Module (UDM) to support Generation III Electronics Control Unit (ECU). The UDM is a ruggedized, portable, hand-held data storage device for securely receiving, storing, and transferring data between CMWS ECUs (similar to a flash, or ''thumb'' drive). The UDM itself is UNCLASSIFIED when initially received. However, when loaded with data, it becomes classified to the appropriate level of the data. In the case of CMWS Software, this raises the classification level to SECRET.

18. Common Missile Warning System (CMWS) Classified Software is provided as Country Specific Software required for the operation and support of the Common Missile Warning System (CMWS) AN/AAR-57. The software, once developed and encrypted, is loaded on a User Data Module (UDM) for transfer and use by the Customer. The software is classified SECRET.

19. Operational Mission Data Set (MDS) in support of the AN/APR-39C(V)l/4 including Software Development. The MDS is a Country Specific, customer defined software data set that defines the radar emitter specifications used by the APR-39C(V)l/4 Radar Warning Receiver to examine signal received signal for potential threats. The Data Set includes data Electronic Warfare Integrated Preprogramming Database (EWIRDB) emitter parametric information to generate the MDS. The MDS is classified SECRET.

20. M1 (Z133) is a 25.4mm Decoy Chaff Cartridge. Z133 is a component in A965. All cartridge components including the cartridge case, piston, end cap and theoretical band coverage are UNCLASSIFIED. The specification and the drawings for this item are also UNCLASSIFIED. Radar Cross Section (RCS) measurements of deployed chaff are CONFIDENTIAL.

21. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

22. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the enclosed Policy Justification. A determination has been made that Czech Republic can provide the same degree of protection for the sensitive technology being released as the U.S. Government.

23. All defense articles and services listed in this transmittal have been authorized for release and export to Czech Republic.

[FR Doc. 2019–12507 Filed 6–12–19; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Transmittal No. 19–10]**

### Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Arms sales notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:** Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 19–10 with attached Policy Justification and Sensitivity of Technology.

Dated: June 7, 2019.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

MAR 2 2 2019

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 19-10 concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Morocco for defense articles and services estimated to cost $985.2 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified document provided under separate cover)

BILLING CODE 5001–06–C

Transmittal No. 19–10

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser*: Kingdom of Morocco

(ii) *Total Estimated Value*:

| | |
|---|---|
| Major Defense Equipment *. | $252.9 million |
| Other | $732.3 million |
| TOTAL | $985.2 million |

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase*: Morocco has requested to upgrade its existing 23 F-16 aircraft to F-16V configuration.

*Major Defense Equipment (MDE)*:

Twenty-six (26) APG-83 Active Electronically Scanned Array (AESA) Radars (includes 3 spares)
Twenty-six (26) Modular Mission Computers (includes 3 spares)
Twenty-six (26) Link-16 Multifunctional Information Distribution Systems—JTRS (MIDS-JTRS) with TACAN and ESHI Terminals (includes 3 spares)
Twenty-six (26) LN260 Embedded Global Navigation Systems (EGI) (includes 3 spares)
Twenty-six (26) Joint Helmet Mounted Cueing Systems II (includes 3 spares)
Twenty-six (26) Improved Programmable Display Generators (iPDG) (includes 3 spares)
Fifty (50) LAU-129 Multi-Purpose Launchers
Twenty-six (26) AN/AAQ-33 Sniper Pods

*Non-MDE*: Also included are twenty-six (26) AN/ALQ-213 EW Management Systems; twenty-six (26) Advanced Identification Friend/Foe; Joint Mission Planning System; twenty-six (26) AN/ALQ-211 AIDEWS; six (6) DB-110 Advanced Reconnaissance Systems; secure communications, cryptographic precision navigation equipment; spares and repair parts; support equipment; personnel training and training equipment; publications and technical documentation; support and test equipment; simulators; integration and test; U.S. Government and contractor engineering, technical and logistical support services; and other related elements of logistics and program support.

(iv) *Military Department*: Air Force (MO-D-QAL)

(v) *Prior Related Cases, if any*: MO–D–SAY

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid*: None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold*: See Attached Annex.

(viii) *Date Report Delivered to Congress*: March 22, 2019

* As defined in Section 47(6) of the Arms Export Control Act.

*POLICY JUSTIFICATION*

*Morocco—F–16 Block 52+ Upgrade to F–16V Configuration*

The Government of Morocco has requested to upgrade its existing twenty-three F-16 aircraft to the F-16V configuration. The requested buy includes twenty-six (26) APG–83 Active Electronically Scanned Array (AESA) Radars (includes 3 spares), twenty-six (26) Modular Mission Computers (includes 3 spares), twenty-six (26) Link-16 Multifunctional Information Distribution System—JTRS (MIDS–JTRS) with TACAN and ESHI Terminals (includes 3 spares), twenty-six (26) LN260 Embedded Global Navigation Systems (EGI) (includes 3 spares), twenty-six (26) Joint Helmet Mounted Cueing Systems II (includes 3 spares), twenty-six (26) Improved Programmable Display Generators (iPDG) (includes 3 spares), fifty (50) LAU–129 Multi-Purpose Launchers; and twenty-six (26) AN/AAQ–33 Sniper Pods. Also included are twenty-six (26) AN/ALQ–213 EW Management Systems; twenty-six (26) Advanced Identification Friend/Foe; Joint Mission Planning System; twenty-six (26) AN/ALQ-211 AIDEWS; six (6) DB–110 Advanced Reconnaissance Systems; secure communications, cryptographic precision navigation equipment; spares and repair parts; support equipment; personnel training and training equipment; publications and technical documentation; support and test equipment; simulators; integration and test; U.S. Government and contractor engineering, technical and logistical support services; and other related elements of logistics and program support. The estimated cost is $985.2 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a major Non-NATO ally that continues to be an important force for political stability and economic progress in North Africa.

The proposed sale will contribute to Morocco's self-defense capabilities. The purchase will improve interoperability with the United States and enhance Morocco's ability to undertake coalition operations, as it has done in the past in flying sorties against ISIS in Syria and Iraq. Morocco already operates an F-16 fleet and will have no difficulty absorbing this aircraft and services into its armed forces.

The proposed sale of this equipment will not alter the basic military balance in the region.

The prime contractor will be Lockheed Corporation, Bethesda, Maryland. The purchaser typically requests offsets. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will require the assignment of 10 additional U.S. Government and approximately 75 contract representatives to Morocco.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 19–10

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology*:

1. This sale will involve the release of sensitive technology to Morocco. The F-16C/D Block 52 upgrade of Morocco's fleet to the ''V'' configuration of the weapon system is unclassified, except as noted below. The aircraft utilizes the F–16 airframe and features advanced avionics and systems. It contains the existing Pratt & Whitney F100–PW–229 EEP, and will be upgraded to include the following: AN/APG–83 radar, digital flight control system, internal and external electronic warfare equipment, Advanced IFF, LINK–16 datalink, operational flight trainer, and software computer programs.

2. Sensitive and/or classified (up to SECRET) elements of the proposed F-16 V include hardware, accessories, components, and associated software: APG–83 AESA Radars, Modular Mission Computers, Improved Programmable Display Generator (iPDG), Link-16 MIDS–JTRS with TACAN and ESHI terminals, Embedded GPS–INS (EGI) LN–260, Joint Helmet Mounted Cueing System II (JHMCS), Advanced Identification Friend or Foe (AIFF), Joint Mission Planning System, AN/ALQ–211 AIDEWS, DB–110 Advanced Reconnaissance Systems, Multi-Purpose Launchers LAU–129, Sniper (AN/AAQ–33) targeting pods, AN/ALQ–213 EW Management Systems, Secure Communications, Cryptographic Appliques, and Improved Programmable Display Generators. Additional sensitive items include operating manuals and maintenance technical orders containing performance information, operating and test procedures, and other information related to support operations and repair. The hardware, software, and data identified are classified to protect vulnerabilities, design and performance parameters and other similar critical information.

3. The AN/APG–83 is an Active Electronically Scanned Array (AESA) radar upgrade for the F–16. It includes higher processor power, higher transmission power, more sensitive receiver electronics, and Synthetic Aperture Radar (SAR), which creates higher-resolution ground maps from a greater distance than existing mechanically scanned array radars (e.g., APG–68). The upgrade features an increase in detection range of air targets, increases in processing speed and memory, as well as significant improvements in all modes. The highest classification of the radar is SECRET.

4. Modular Mission Computer (MMC) is the central aircraft computer of the F–16. It serves as the hub for all aircraft subsystems and avionics data transfer. The hardware and software are classified SECRET.

5. The Improved Programmable Display Generator (iPDG) and color multifunction displays utilize ruggedized commercial liquid crystal display technology that is designed to withstand the harsh environment found in modern fighter cockpits. The display generator is the fifth generation graphics processor for the F–16. Through the use of state-of-the-art microprocessors and graphics engines, it provided orders of magnitude increases in throughput, memory, and graphics capabilities. The hardware and software are UNCLASSIFIED.

6. Multifunctional Information Distribution System (MIDS) is an advanced Link-16 command, control, communications, and intelligence (C3I) system incorporating high-capacity, jam-resistant, digital communication links for exchange of near real-time tactical information, including both data and voice, among air, ground, and sea elements. The MIDS terminal hardware, publications, performance specifications, operational capability, parameters, vulnerabilities to countermeasures, and software documentation are classified CONFIDENTIAL. The classified information to be provided consists of that which is necessary for the operation, maintenance, and repair (through intermediate level) of the data link terminal, installed systems, and related software.

7. Embedded GPS-INS (EGI) LN–260 is a sensor that combines GPS and inertial sensor inputs to provide accurate location information for navigation and targeting. The EGI LN–260 is UNCLASSIFIED. The GPS crypto

variable keys needed for highest GPS accuracy are classified up to SECRET.

8. Joint Helmet Mounted Cueing System (JHMCS II) is a modified HGU–55/P helmet that incorporates a visor-projected Heads-Up Display (HUD) to cue weapons and aircraft sensors to air and ground targets. This system projects visual targeting and aircraft performance information on the back of the helmet's visor, enabling the pilot to monitor this information without interrupting his field of view through the cockpit canopy. This provides improvement for close combat targeting and engagement. Hardware is Unclassified; technical data and documents are classified up to SECRET.

9. The AN/APX–126 Advanced Identification Friend or Foe (AIFF) Combined Interrogator Transponder (CIT) is a system capable of transmitting and interrogating Mode V. It is UNCLASSIFIED unless/until Mode IV and/or Mode V operational evaluator parameters are loaded into the equipment. Elements of the IFF system classified up to SECRET include software object code, operating characteristics, parameters, and technical data. Mode IV and Mode V anti-jam performance specifications/data, software source code, algorithms, and tempest plans or reports will not be offered, released, discussed, or demonstrated.

10. JMPS (Joint Mission Planning System) is a multi-platform PC based mission planning system. JMPS hardware is unclassified but the software is classified up to SECRET.

11. The AN/ALQ–211 Airborne Integrated Defensive Electronic Warfare Suite (AIDEWS) provides passive radar warning, wide spectrum RF jamming, and control and management of the entire EW system. It is an externally mounted Electronic Warfare (EW) pod. The commercially developed system software and hardware is UNCLASSIFIED. The system is classified SECRET when loaded with a US derived EW database.

12. DB–110 is a tactical airborne reconnaissance system. This capability permits reconnaissance missions to be conducted from very short range to long range by day or night. It is an under-the-weather, podded system that produces high resolution, dual-band electro-optical and infrared imagery. The DB–110 system is UNCLASSIFIED.

13. The LAU–129 Guided Missile Launcher is capable of launching a single AIM–9 (Sidewinder) family of missile or AIM–120 Advanced Medium Range Air-to-Air Missile (AMRAAM). The LAU–129 launcher provides mechanical and electrical interface between missile and aircraft. There are five versions produced strictly for foreign military sales. The only difference between these launchers is the material they are coated with or the color of the coating. This device is UNCLASSIFIED.

14. The SNIPER (AN/AAQ-33) targeting system is UNCLASSIFIED and contains technology representing the latest state-of-the-art in electro-optical clarity and haze, and low light targeting capability. Information on performance and inherent vulnerabilities is classified SECRET. Software (object code) is classified CONFIDENTIAL. Overall system classification is SECRET.

15. This sale will involve the release of sensitive and or classified cryptographic elements for secure communications radios, cryptographic appliques and keying equipment, and precision navigation equipment. The hardware is UNCLASSIFIED except where systems are loaded with cryptographic software, which is classified up to SECRET.

16. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

17. A determination has been made that Morocco can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

18. All defense articles and services listed in this transmittal are authorized for release and export to the Government of Morocco.

[FR Doc. 2019–12445 Filed 6–12–19; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Transmittal No. 19–15]**

### Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Arms sales notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:** Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 19–15 with attached Policy Justification and Sensitivity of Technology.

Dated: June 7, 2019.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

APR 3 2 2019

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 19-15, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of India for defense articles and services estimated to cost $2.6 billion. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

**BILLING CODE 5001–06–C**

Transmittal No. 19–15

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser*: Government of India

(ii) *Total Estimated Value*:

| | |
|---|---|
| Major Defense Equipment* | $1.6 billion |
| Other | $1.0 billion |
| TOTAL | $2.6 billion |

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase*:

*Major Defense Equipment (MDE):*

Twenty-four (24) MH–60R Multi-Mission Helicopters, equipped with the following:

Thirty (30) APS–153(V) Multi-Mode Radars (24 installed, 6 spares)

Sixty (60) T700 GE–401C Engines (48 installed and 12 spares)

Twenty-four (24) Airborne Low Frequency System (ALFS) (20 installed, 4 spares)

Thirty (30) AN/AAS–44C(V) Multi-Spectral Targeting System (24 installed, 6 spares)

Fifty-four (54) Embedded Global Positioning System/Inertial Navigation Systems (EGI) with Selective Availability/Anti-Spoofing Module (SAASM) (48 installed, 6 spares)

One thousand (1,000) AN/SSQ–36/53/62 Sonobuoys

Ten (10) AGM–114 Hellfire Missiles

Five (5) AGM–114 M36–E9 Captive Air Training Missiles (CATM)

Four (4) AGM–114Q Hellfire Training Missiles

Thirty-eight (38) Advanced Precision Kill Weapon System (APKWS) Rockets

Thirty (30) MK 54 Torpedoes

Twelve (12) M–240D Crew Served Guns

Twelve (12) GAU–21 Crew Served Guns

Two (2) Naval Strike Missile Emulators

Four (4) Naval Strike Missile Captive Inert Training Missiles

One (1) MH–60B/R Excess Defense Article (EDA) USN legacy Aircraft

*Non-MDE:* Also included are seventy (70) AN/AVS–9 Night Vision Devices; fifty-four (54) AN/ARC–210 RT–1990A(C) radios with COMSEC (48 installed, 6 spares); thirty (30) AN/ARC–220 High Frequency radios (24 installed, 6 spares); thirty (30) AN/APX–123 Identification Friend or Foe (IFF) transponders (24 installed, 6 spares); spare engine containers; facilities study, design, and construction; spare and repair parts; support and test equipment; communication equipment; ferry support; publications and technical documentation; personnel training and training equipment; U.S. Government and contractor engineering, technical and logistics support services; and other related elements of logistical and program support.

(iv) *Military Department*: Navy (IN–P–SAY)

(v) *Prior Related Cases, if any*: None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid*: None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold*: See Attached Annex.

(viii) *Date Report Delivered to Congress*: April 2, 2019

* As defined in Section 47(6) of the Arms Export Control Act.

*POLICY JUSTIFICATION*

*India—MH–60R Multi-Mission Helicopters*

The Government of India has requested to buy twenty-four (24) MH–60R Multi-Mission helicopters, equipped with the following: thirty (30) APS–153(V) Multi-Mode radars (24 installed, 6 spares); sixty (60) T700–GE–401C engines (48 installed and 12 spares); twenty-four (24) Airborne Low Frequency System (ALFS) (20 installed, 4 spares); thirty (30) AN/AAS–44C(V) Multi-Spectral Targeting System (24 installed, 6 spares); fifty-four (54) Embedded Global Positioning System/Inertial Navigation Systems (EGI) with Selective Availability/Anti-Spoofing Module (SAASM) (48 installed, 6 spares); one thousand (1,000) AN/SSQ–36/53/62 sonobuoys; ten (10) AGM–114 Hellfire missiles; five (5) AGM–114 M36–E9 Captive Air Training Missiles (CATM); four (4) AGM–114Q Hellfire Training missiles; thirty-eight (38) Advanced Precision Kill Weapons System (APKWS) rockets; thirty (30) MK 54 torpedoes; twelve (12) M–240D Crew Served guns; twelve (12) GAU–21 Crew Served guns; two (2) Naval Strike Missile Emulators; four (4) Naval Strike Missile Captive Inert Training missiles; one (1) MH–60B/R Excess Defense Article (EDA) USN legacy aircraft. Also included are seventy (70) AN/AVS–9 Night Vision Devices; fifty-four (54) AN/ARC–210 RT–1990A(C) radios with COMSEC (48 installed, 6 spares); thirty (30) AN/ARC–220 High Frequency radios (24 installed, 6 spares); thirty (30) AN/APX–123 Identification Friend or Foe (IFF) transponders (24 installed, 6 spares); spare engine containers; facilities study, design, and construction; spare and repair parts; support and test equipment; communication equipment; ferry support; publications and technical documentation; personnel training and training equipment; U.S. Government and contractor engineering, technical and logistics support services; and other related elements of logistical and program support. The total estimated cost is $2.6 billion.

This proposed sale will support the foreign policy and national security of the United States by helping to strengthen the U.S.-Indian strategic relationship and to improve the security of a major defensive partner which continues to be an important force for political stability, peace, and economic progress in the Indo-Pacific and South Asia region.

The proposed sale will provide India the capability to perform anti-surface and anti-submarine warfare missions along with the ability to perform secondary missions including vertical replenishment, search and rescue, and communications relay. India will use the enhanced capability as a deterrent to regional threats and to strengthen its homeland defense. India will have no difficulty absorbing these helicopters into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Lockheed Martin Rotary and Mission Systems, Owego, New York. The purchaser typically requests offsets. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will require the assignment of 20–30 U.S. Government and/or contractor representatives to India.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 19–15

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology*:

1. The MH–60R Multi-Mission Helicopter focuses primarily on anti-submarine and anti-surface warfare missions. The MH–60R carries several sensors and data links to enhance its ability to work in a network centric battle group and as an extension of its home ship/main operating base. The mission equipment subsystem consists of the following sensors and subsystems: an acoustics systems consisting of a dipping sonar and sonobuoys, Multi-Mode Radar (MMR) with integral Identification Friend or Foe (IFF) interrogator, Radios with COMSEC, Electronic Support Measures (ESM), Integrated Self-Defense (ISD), and Multi-Spectral Targeting System (MTS). Also, Night Vision Devices (AN/AVS–9) for CONOPS and interoperability with USN. It can carry AGM–114A/B/K/N Hellfire missiles, as well as, MK 46/54 torpedoes to engage surface and sub-surface targets. The Indian Navy MH–60R platform will include provisions for the MK 54 light weight torpedo. The MH–60R weapons system is classified up to SECRET. Unless otherwise noted below, MH–60R hardware and support equipment, test equipment and maintenance spares are unclassified except when electrical power is applied to hardware containing volatile data storage. Technical data and documentation for MH-60R weapons systems (to include sub-systems and weapons listed below) are classified up to SECRET. The sensitive technologies include:

a. The AGM-114 HELLFIRE missile is an air-to-surface missile with a multi-mission, multi-target, precision strike capability. The HELLFIRE can be launched from multiple air platforms and is the primary precision weapon for the United States Army. The highest level for release of the AGM-114 HELLFIRE is SECRET, based upon the software. The highest level of classified information that could be disclosed by a proposed sale or by testing of the end item is SECRET; the highest level that must be disclosed for production, maintenance, or training is CONFIDENTIAL. Reverse engineering could reveal CONFIDENTIAL information. Vulnerability data, counter-measures, vulnerability/susceptibility analyses, and threat definitions are classified SECRET or CONFIDENTIAL.

b. Advanced Precision Kill Weapon System (APKWS) laser guided rocket to counter the fast attack craft and fast inshore attack craft threat. APKWS hardware is UNCLASSIFIED.

c. The light weight air launched torpedo (MK 54) for surface and subsurface targets. The acquisition of MK 54 will include ancillary equipment and publications.

d. Communications security devices contain sensitive encryption algorithms and keying material. The purchasing country has previously been released and utilizes COMSEC devices in accordance with set procedures and without issue. COMSEC devices will be classified up to SECRET when keys are loaded.

e. Identification Friend or Foe (IFF) (KIV-78) contains embedded security devices containing sensitive encryption algorithms and keying material. The purchasing country will utilize COMSEC devices in accordance with set procedures. The AN/APX-123 is classified up to SECRET.

f. GPS/PPS/SAASM - Global Positioning System (GPS) provides a

space-based Global Navigation Satellite System (GNSS) that has reliable location and time information in all weather and at all times and anywhere on or near the earth when and where there is an unobstructed line of sight to four or more GPS satellites. Selective Availability/Anti-Spoofing Module (SAASM) (AN/PSN-11) is used by military GPS receivers to allow decryption of precision GPS coordinates. In addition, the GPS Antenna System (GAS-1) provides protection from enemy manipulation of the GPS system. The GPS hardware is UNCLASSIFIED. When electrical power is applied, the system is classified up to SECRET.

g. Acoustics algorithms are used to process dipping sonar and sonobuoy data for target tracking and for the Acoustics Mission Planner (AMP), which is a tactical aid employed to optimize the deployment of sonobuoys and the dipping sonar. Acoustics hardware is UNCLASSIFIED. The acoustics system is classified up to SECRET when environmental and threat databases are loaded and/or the system is processing acoustic data.

h. The AN/APS-153 multi-mode radar with an integrated IFF and Inverse Synthetic Aperture (ISAR) provides target surveillance/detection capability. The AN/APS-153 hardware is unclassified. When electrical power is applied and mission data loaded, the AN/APS-153 is classified up to SECRET.

i. The AN/ALQ-210 (ESM) system identifies the location of an emitter. The ability of the system to identify specific emitters depends on the data provided by Indian Navy. The AN/ALQ-210 hardware is UNCLASSIFIED. When electrical power is applied and mission data loaded, the AN/ALQ-210 system is classified up to SECRET.

j. The AN/AAS-44C(V) Multi-spectral Targeting System (MTS) operates in day/night and adverse weather conditions. Imagery is provided by a Forward Looking Infrared (FLIR) sensor, a color/monochrome day television (DTV) camera, and a Low-Light TV (LLTV). The AN/AAS-44C(V) hardware is UNCLASSIFIED. When electrical power is applied, the AN/AAS-44C(V) is classified up to SECRET.

k. Ultra High Frequency/Very High Frequency (UHF/VHF) Radios (ARC-210) contain embedded sensitive encryption algorithms and keying material. The purchasing country will utilize COMSEC devices in accordance with set procedures. The ARC-210 hardware is UNCLASSIFIED. When electrical power is applied and mission data loaded, the ARC-210 is classified up to SECRET.

l. Advanced Data Transfer System (ADTS) with Type 1 encryption for data at rest.

m. Satellite Communications Demand Assigned Multiple Access (SATCOM DAMA), which provides increased, interoperable communications capabilities with US forces. SATCOM DAMA hardware is UNCLASSIFIED. When electrical power is applied and mission data loaded these systems are classified up to SECRET.

2. All the mission data, including sensitive parameters, is loaded from an off board station before each flight and does not stay with the aircraft after electrical power has been removed. Sensitive technologies are protected as defined in the program protection and anti-tamper plans. The mission data and off board station are classified up to SECRET.

3. If a technologically advanced adversary were to obtain knowledge of the hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that the Government of India can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to India.

[FR Doc. 2019–12454 Filed 6–12–19; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Transmittal No. 19–34]**

### Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Arms sales notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:** Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 19–34 with attached Policy Justification and Sensitivity of Technology.

Dated: June 10, 2019.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

MAY 0 3 2019

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 19-34 concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of the Czech Republic for defense articles and services estimated to cost $205 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

**BILLING CODE 5001–06–C**

Transmittal No. 19-34

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser*: Government of the Czech Republic

(ii) *Total Estimated Value*:

| | |
|---|---|
| Major Defense Equipment * .. | $180 million |
| Other ..... | $ 25 million |
| TOTAL ..... | $205 million |

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase*:

*Major Defense Equipment (MDE):*

Four (4) AH-1Z Attack Helicopters
Eight (8) T700-GE-701D Engines (installed)
Eight (8) Honeywell Embedded Global Positioning Systems with Navigation (EGI) and Precise Positioning Service (PPS) (installed)
Fourteen (14) AGM-114 Hellfire Missiles

*Non-MDE:*

Also included is communication equipment, electronic warfare systems, M197 20mm machine guns, Target Sight System, support equipment, spare engine containers, spare and repair parts, tools and test equipment, technical data and publications, personnel training and training equipment, U.S. government and contractor engineering, technical, and logistics support services, and other related elements of logistics and program support.

(iv) *Military Department*: Navy (EZ-P-SBF)

(v) *Prior Related Cases, if any*: None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid*: None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold*: See Attached Annex

(viii) *Date Report Delivered to Congress:* **May 3, 2019**

* As defined in Section 47(6) of the Arms Export Control Act.

*POLICY JUSTIFICATION*

*Czech Republic—AH-1Z Attack Helicopters*

The Government of Czech Republic has requested to buy four (4) AH-1Z attack helicopters, eight (8) T700-GE-701D engines (installed), eight (8) Honeywell Embedded Global Positioning Systems with Inertial Navigation (EGI) and Precise Positioning Service (PPS) (installed), and fourteen

(14) AGM-114 Hellfire missiles. Also included is communication equipment, electronic warfare systems, M197 20mm machine guns, Target Sight System, support equipment, spare engine containers, spare and repair parts, tools and test equipment, technical data and publications, personnel training and training equipment, U.S. government and contractor engineering, technical, and logistics support services, and other related elements of logistics and program support. The total estimated program cost is $205 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a NATO partner that is an important force for ensuring peace and stability in Europe. The proposed sale will support the Czech Republic's need for its own self-defense and support NATO defense goals.

The Czech Republic is considering either the UH-60M or the UH-1Y/AH-1Z to replace its aging Mi-24 helicopters. The Czech Republic intends to use these helicopters to modernize its armed forces and strengthen its homeland defense. This will contribute to the Czech Republic's military goal of updating its capabilities while further enhancing interoperability with the United States and NATO allies. The Czech Republic will have no difficulty absorbing these helicopters into its armed forces.

The proposed sale of this equipment will not alter the basic military balance in the region.

The principal contractors will be Bell Helicopter, Textron, Fort Worth, Texas; and General Electric Company, Lynn, Massachusetts. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale will require multiple trips by U.S. Government and contractor representatives to participate in program and technical reviews plus training and maintenance support in country, on a temporary basis, for a period of twenty-four (24) months. It will also require three (3) contractor representatives to reside in country for a period of two (2) years to support this program.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 19-34

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology*:

1. The AH-*1*Z Helicopter is a twin-engine attack helicopter developed for the United States Marine Corps. The AH-*1*Z incorporates new rotor technology with upgraded military avionics, weapons systems, and electro-optical sensors in an integrated weapons platform. It has improved survivability and can find targets at longer ranges and attack them with precision weapons. The four blades are made of composites, which have an increased ballistic survivability, and there is a semi-automatic folding system for stowage aboard amphibious assault ships.

2. The Z-model has an integrated avionics system (IAS) which includes two (2) mission computers and an automatic flight control system. Each crew station has two (2) 8x6- inch multifunction liquid crystal displays (LCD) and one (1) 4.2x4.2-inch dual function LCD display. The communications suite will have NON-COMSEC ARC 210 UHFNHF radios with associated communications equipment. The navigation suite includes a Precise Positioning System (SPS) Honeywell embedded GPS inertial navigation system (EGI), a digital map system, and a low-airspeed air data subsystem, which allows weapons delivery when hovering.

3. The crew is equipped with the Optimized Top Owl (OTO) helmet-mounted sight and display system. The OTO has a Day Display Module (DDM) and a Night Display Module (NDM). The AH-*1*Z has survivability equipment including the AN/AAR-47 Missile Warning and Laser Detection System, AN/ALE-47 Counter Measure Dispensing System (CMOS) and the AN/APR-39 Radar Warning Receiver to cover countermeasure dispensers, radar warning, incoming/on-way missile warning and on-fuselage laser-spot warning systems.

4. The following performance data and technical characteristics are classified as annotated:

| | |
|---|---|
| **AH-1Z Airframe** | |
| —Countermeasure capability | SECRET |
| —Counter-countermeasures capability | SECRET |
| —Vulnerability to countermeasures | SECRET |
| —Vulnerability to electromagnetic pulse from nuclear environmental effects | SECRET |
| —Radar signature | SECRET |
| —Infrared signature | SECRET |
| —Acoustic signature | CONFIDENTIAL |
| —Ultraviolet signature | SECRET |
| —Mission effectiveness against threats | CONFIDENTIAL |
| **Target Sight System (TSS)** | Up to SECRET |
| **Other Systems** | |
| — —Tactical Air Moving Map Capability (TAMMAC) | Up to SECRET |
| — —Honeywell Embedded GPS & INS (EGI) w/SPS | Up to SECRET |
| — —AN/ARC-210 RT 1939(A) | Up to SECRET |
| — —APX-123A IFF Transponder | Up to SECRET |
| — —VCR or DVR | Up to SECRET |
| — —APR-39 Radar Warning System (RWS) | Up to SECRET |
| — —AN/AAR-47 Missile/Laser Warning System (MLWS) | Up to SECRET |
| — —AN/ALE-47 Countermeasures Dispenser Set (CMDS) | Up to SECRET |

5. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

6. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the enclosed Policy Justification. A determination has been made that Czech Republic can provide the same degree of protection for the sensitive technology being released as the U.S. Government.

7. All defense articles and services listed in this transmittal have been

authorized for release and export to Czech Republic.

[FR Doc. 2019–12510 Filed 6–12–19; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Transmittal No. 19–09]**

### Arms Sales Notification

**AGENCY:** Defense Security Cooperation Agency, Department of Defense.

**ACTION:** Arms sales notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of an arms sales notification.

**FOR FURTHER INFORMATION CONTACT:** Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

**SUPPLEMENTARY INFORMATION:** This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 19–09 with attached Policy Justification and Sensitivity of Technology.

Dated: June 7, 2019.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

MAR 2 2 2019

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 19-09 concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Morocco for defense articles and services estimated to cost $3.787 billion. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified document provided under separate cover)

BILLING CODE 5001–06–C

Transmittal No. 19-09

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Kingdom of Morocco

(ii) *Total Estimated Value:*

| | |
|---|---|
| Major Defense Equipment * | $2.987 billion |
| Other | $ .800 billion |
| | $3.787 billion |

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

*Major Defense Equipment (MDE)*:

Twenty-five (25) F-16C/D Block 72 Aircraft
Twenty-nine (29) Engines (Pratt & Whitney F100-229 (includes 4 spares)
Twenty-six (26) APG-83 Active Electronically Scanned Array (AESA) Radars (includes 1 spare)
Twenty-six (26) Modular Mission Computers (includes 1 spare)
Twenty-six (26) Link-16 Multifunctional Information Distribution Systems – JTRS (MIDS-JTRS) with TACAN and ESHI Terminals (includes 1 spare)
Twenty-six (26) LN260 Embedded Global Navigation Systems (EGI) (includes 1 spare)
Forty (40) Joint Helmet Mounted Cueing Systems (JHMCS) (includes 5 spares)
Twenty-six (26) Improved Programmable Display Generators (iPDG) (includes 1 spare)
Thirty (30) M61 Al Vulcan 20mm Guns (includes 5 spares)
Fifty (50) LAU-129 Multi-Purpose Launchers
Forty (40) AIM-120C-7 Advanced Medium Range Air-to-Air Missiles (AMRAAM)
Forty (40) AIM-120C-7 Guidance Sections
Three (3) GBU-38/54 JDAM Tail Kits
Fifty (50) MXU-650 Air Foil Group, GBU-49
Fifty (50) MAU-210 Enhanced Computer Control Group (CCG), GBU-49,-50
Thirty-six (36) FMU-139 D/B Fuzes
Six (6) FMU-139 D/B (D-l) Inert Fuzes
Two (2) GBU-39 (T-l) GTVs
Sixty (60) GBU-39/B Small Diameter Bombs (SDB I)
Ten (10) MAU-169L/B Computer Control Group, GBU-10,-12,-16
Ten (10) MXU-650C/B Air Foil Group, GBU-12
Twelve (12) MK82 Bombs, Filled Inert
Four (4) BLU-109 Practice Bombs
Ten (10) MAU-169 CCG (D-2)
Twenty-six (26) AN/AAQ-33 Sniper Pods

*Non-MDE:* Also included are twenty-six (26) AN/ALQ-213 EW Management Systems; twenty-six (26) Advanced Identification Friend/Foe; Secure Communications, Cryptographic Precision Navigation Equipment; one (1) Joint Mission Planning System; twenty-six (26) AN/ALQ-211 AIDEWS; six (6) DB-110 Advanced Reconnaissance Systems; communications equipment; spares and repair parts; support equipment; personnel training and training equipment; publications and technical documentation; support and test equipment, simulators; integration and test; U.S. Government and contractor engineering, technical and logistical support services; and other related elements of logistics and program support.

(iv) *Military Department:* Air Force (MO-D-SAH)

(v) *Prior Related Cases, if any:* MO-D-SAY

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex.

(viii) *Date Report Delivered to Congress:* March 22, 2019

*As defined in Section 47(6) of the Arms Export Control Act.

*POLICY JUSTIFICATION*

*Morocco – F-16 Block 72 New Purchase*

The Government of Morocco has requested to buy twenty-five (25) F-16C/D Block 72 aircraft; twenty-nine (29) engines (Pratt & Whitney F100-229) (includes 4 spares); twenty-six (26) APG-83 Active Electronically Scanned Array (AESA) radars (includes 1 spare); twenty-six (26) Modular Mission Computers (includes 1 spare); twenty-six (26) Link-16 Multifunctional Information Distribution Systems — JTRS (MIDS-JTRS) with TACAN and ESHI Terminals (includes 1 spare); twenty-six (26) LN260 Embedded Global Navigation Systems (EGI) (includes 1 spare); forty (40) Joint Helmet Mounted Cueing Systems (JHMCS) (includes 5 spares); twenty-six (26) Improved Programmable Display Generators (iPDG) (includes 1 spare); thirty (30) M61 Al Vulcan 20mm Guns (includes 5 spares); fifty (50) LAU-129 Multi-Purpose Launchers; forty (40) AIM-120C-7 Advanced Medium Range Air-to-Air Missiles (AMRAAM); forty (40) AIM-120C-7 Guidance Sections; three (3) GBU-38/54 JDAM Tail Kits; fifty (50) MXU-650 Air Foil Group, GBU-49; fifty (50) MAU-210 Enhanced Computer Control Group (CCG), GBU-49,-50; thirty-six (36) FMU-139 D/B Fuzes; six (6) FMU-139 D/B (D-l) Inert Fuzes; two (2) GBU-39 (T-l) GTVs; sixty (60) GBU-39/B Small Diameter Bombs (SDB I); ten (10) MAU-169L/B Computer Control Group, GBU-10,-12,-16; ten (10) MXU-650C/B Air Foil Group, GBU-12; twelve (12) MK82 Bombs, Filled Inert; four (4) BLU-109 Practice Bombs; ten (10) MAU-169 CCG (D-2); and twenty-six (26) AN/AAQ-33 Sniper Pods. Also included are twenty-six (26) AN/ALQ-213 EW Management Systems; twenty-six (26) Advanced Identification Friend/Foe; Secure Communications, Cryptographic Precision Navigation Equipment; one (1) Joint Mission Planning System; twenty-six (26) AN/ALQ-211 AIDEWS; six (6) DB-110 Advanced Reconnaissance Systems; communications equipment; spares and repair parts; support equipment; personnel training and training equipment; publications and technical documentation; support and test equipment, simulators; integration and test; U.S. Government and contractor engineering, technical and logistical support services; and other related elements of logistics and program support. The estimated cost is $3.787 billion.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a major Non-NATO ally that continues to be an important force for political stability and economic progress in North Africa.

The proposed sale will contribute to Morocco's self-defense capabilities. The purchase will improve interoperability with the United States and other regional allies and enhance Morocco's ability to undertake coalition operations, as it has done in the past in flying sorties against ISIS in Syria and Iraq. Morocco already operates an F-16 fleet and will have no difficulty absorbing this aircraft and services into its armed forces.

The proposed sale of this equipment will not alter the basic military balance in the region.

The prime contractor will be Lockheed Corporation, Bethesda, Maryland. The purchaser typically requests offsets. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will require the assignment of 10 additional U.S. Government and approximately 75 contract representatives to Morocco.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 19-09

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. This sale will involve the release of sensitive technology to Morocco. The F-16C/D Block 72 weapon system is unclassified, except as noted below. The aircraft utilizes the F-16 airframe and features advanced avionics and systems. It will contain the Pratt & Whitney F100-PW-229 EEP engine, AN/APG-83 radar, digital flight control system, embedded internal global navigation

system, Joint Helmet Mounted Cueing Systems (JHMCS), internal and external electronic warfare equipment, Advanced IFF, LINK-16 datalink, operational flight trainer, and software computer programs.

2. Sensitive and/or classified (up to SECRET) elements of the proposed F-16 V include hardware, accessories, components, and associated software: Link 16 (MIDS-JTRS) with TACAN and ESHI Terminals, Multipurpose Launcher (LAU-129), AN/ALQ-213 EW Management Systems, Advanced Identification Friend or Foe (AIFF), Cryptographic Appliques (KIV-78), Dual-Band AN/ARC-238 UHF/VHF Radios, KY-58M COMSEC Secure Voice Processors, Joint Mission Planning System, F-16V Simulator, AN/ALQ-211 AIDEWS Pods, Avionics I-Level Test Station, DB-110 Advanced Reconnaissance Systems, F-110 engine infrared signature, Sniper (AN/AAQ-33-33) targeting pods, and Advanced Interference Blanker Unit. Additional sensitive areas include operating manuals and maintenance technical orders containing performance information, operating and test procedures, and other information related to support operations and repair. The hardware, software, and data identified are classified to protect vulnerabilities, design and performance parameters and other similar critical information.

3. The AN/APG-83 is an Active Electronically Scanned Array (AESA) radar upgrade or the F-16. It includes higher processor power, higher transmission power, more sensitive receiver electronics, and Synthetic Aperture Radar (SAR), which creates higher-resolution ground maps from a greater distance than existing mechanically scanned array radars (e.g., APG-68). The upgrade features an increase in detection range of air targets, increases in processing speed and memory, as well as significant improvements in all modes. The highest classification of the radar is SECRET.

4. The Multifunctional Information Distribution System (MIDS) is an advanced Link-16 command, control, communications, and intelligence (C3I) system incorporating high-capacity, jam-resistant, digital communication links for exchange of near real-time tactical information, including both data and voice, among air, ground, and sea elements. The MIDS terminal hardware, publications, performance specifications, operational capability, parameters, vulnerabilities to countermeasures, and software documentation are classified CONFIDENTIAL. The classified information to be provided consists of that which is necessary for the operation, maintenance, and repair (through intermediate level) of the data link terminal, installed systems, and related software.

5. Joint Helmet Mounted Cueing System (JHMCS II) is a modified HGU-55/P helmet that incorporates a visor-projected Heads-Up Display (HUD) to cue weapons and aircraft sensors to air and ground targets. This system projects visual targeting and aircraft performance information on the back of the helmet's visor, enabling the pilot to monitor this information without interrupting his field of view through the cockpit canopy. This provides improvement for close combat targeting and engagement. Hardware is UNCLASSIFIED; technical data and documents are classified up to SECRET.

6. KY-58M is a lightweight terminal for secure voice and data communications. The KY-58M provides wideband/ narrowband half duplex communication. The KY-58M provides flexible interface capability. Operating in tactical ground, marine and airborne applications, the KY-58M enables secure communication with a broad range of radio and satellite equipment.

7. Joint Mission Planning System (JMPS) is a multi-platform PC based mission planning system. JMPS hardware is UNCLASSIFIED but the software is classified up to SECRET.

8. AN/ALQ-211 Airborne Integrated Defensive Electronic Warfare Suite (AIDEWS) provides passive radar warning, wide spectrum RF jamming, and control and management of the entire EW system. It is an externally mounted Electronic Warfare (EW) pod. The commercially developed system software and hardware is UNCLASSIFIED. The system is classified SECRET when loaded with a US derived EW database.

9. The DB-110 is a tactical airborne reconnaissance system. This capability permits reconnaissance missions to be conducted from very short range to long range by day or night. It is an under-the-weather, podded system that produces high resolution, dual-band electro-optical and infrared imagery. The DB-110 system is UNCLASSIFIED.

10. Embedded GPS-INS (EGI) LN-260 is a sensor that combines GPS and inertial sensor inputs to provide accurate location information for navigation and targeting. The EGI LN-260 is UNCLASSIFIED. The GPS cryptovariable keys needed for highest GPS accuracy are classified up to SECRET.

11. The AN/APX-126 Advanced Identification Friend or Foe (AIFF) Combined Interrogator Transponder (CIT) is a system capable of transmitting and interrogating Mode V. It is UNCLASSIFIED unless/until Mode IV and/or Mode V operational evaluator parameters are loaded into the equipment. Elements of the IFF system classified up to SECRET include software object code, operating characteristics, parameters, and technical data. Mode IV and Mode V anti-jam performance specifications/ data, software source code, algorithms, and tempest plans or reports will not be offered, released, discussed, or demonstrated.

12. The Modular Mission Computer (MMC) is the central aircraft computer of the F-16. It serves as the hub for all aircraft subsystems and avionics data transfer. The hardware and software are classified SECRET.

13. The Improved Programmable Display Generator (iPDG) and color multifunction displays utilize ruggedized commercial liquid crystal display technology designed to withstand the harsh environment found in modern fighter cockpits. The display generator is the fifth generation graphics processor for the F-16. Through the use of state-of-the-art microprocessors and graphics engines, it provides orders of magnitude increases in throughput, memory, and graphics capabilities. The hardware and software are UNCLASSIFIED.

14. The KIV-78 is a crypto applique for Mode 5 IFF. The hardware is UNCLASSIFIED unless loaded with Mode 4 and/or Mode 5 classified elements.

15. The SNIPER (AN/AAQ-33) targeting system is UNCLASSIFIED and contains technology representing the latest state-of-the-art in electro-optical clarity and haze, and low light targeting capability. Information on performance and inherent vulnerabilities is classified SECRET. Software (object code) is classified CONFIDENTIAL. Overall system classification is SECRET.

16. The AN/ARC-238 radio with HAVE QUICK II is a voice communications radio system and considered UNCLASSIFIED without HAVE QUICK II. HAVE QUICK II employs cryptographic technology that is classified SECRET. Classified elements include operating characteristics, parameters, technical data, and keying material.

17. The LAU-129 Guided Missile Launcher is capable of launching a single AIM-9 (Sidewinder) family of missile or AIM-120 Advanced Medium Range Air-to-Air Missile (AMRAAM). The LAU-129 launcher provides mechanical and electrical interface

between missile and aircraft. There are five versions produced strictly for foreign military sales. The only difference between these versions is the material they are coated with or the color of the coating. This device is UNCLASSIFIED.

18. The AIM-120C-7 Advanced Medium Range Air-to-Air Missile (AMRAAM) is a supersonic, air launched, aerial intercept, guided missile featuring digital technology and microminiature solid-state electronics. AMRAAM capabilities include lookdown/shootdown, multiple launches against multiple targets, resistance to electronic countermeasures, and interception of high- and low-flying maneuvering targets. The AMRAAM AUR is classified CONFIDENTIAL, major components and subsystems range from UNCLASSIFIED to CONFIDENTIAL, and technical data and other documentation are classified up to SECRET.

19. Joint Direct Attack Munitions (JDAM) (General Overview) is a Joint Service weapon which uses an onboard GPS-aided Inertial Navigation System (INS) Guidance Set with a MK 82, MK 83, MK 84, BLU-109, BLU-110, BLU-111, BLU-117, BLU-126 (Navy) or BLU-129 warhead. The Guidance Set, when combined with a warhead and appropriate fuze, and tailkit forms a JDAM Guided Bomb Unit (GBU). The JDAM Guidance Set gives these bombs adverse weather capability with improved accuracy. The tail kit contains an Inertial Navigation System (INS) guidance/Global Positioning System (GPS) guidance to provide highly accurate weapon delivery in any ''flyable'' weather. The INS, using updates from the GPS, helps guide the bomb to the target via the use of movable tail fins. The JDAM weapon can be delivered from modest standoff ranges at high or low altitudes against a variety of land and surface targets during the day or night. After release, JDAM autonomously guides to a target, using the resident GPS-aided INS guidance system. JDAM is capable of receiving target coordinates via preplanned mission data from the delivery aircraft, by onboard aircraft sensors (i.e. FLIR, Radar, etc.) during captive carry, or from a third party source via manual or automated aircrew cockpit entry. The JDAM as an All Up Round is SECRET; technical data for JDAM is classified up to SECRET.

20. GBU-31/38 (JDAM) are 2,000 pound and 500 pound JDAMs respectively. The JDAM All Up Round (AUR) and all of its components are SECRET; technical data for JDAM is classified up to SECRET. The GBU-31/38 contain a GPS Receiver Card with Selective Availability Anti-Spoofing Module (SAASM).

21. GBU-54/56 (LIDAM) are 500 pound and 2,000 pound JDAM respectivelys, which incorporates all the capabilities of the JDAM and adds a precision laser guidance set. The Laser-JDAM (LIDAM) gives the weapon system an optional semi-active laser guidance in addition to the correct GPS/INS guidance which allows for striking moving targets. The LJDAM AUR and all of its components are SECRET; technical data for JDAM is classified up to SECRET. The GBU-54/56 contain a GPS Receiver Card with Selective Availability Anti-Spoofing Module (SAASM).

22. GBU-49 and GBU-50 Enhanced Paveway II (EP II) are 5001bs/20001bs dual mode laser and GPS guided munitions respectively. Information revealing target designation tactics and associated aircraft maneuvers, the probability of destroying specific/peculiar targets, vulnerabilities regarding countermeasures and the electromagnetic environment is classified SECRET. Information revealing the probability of destroying common/unspecified targets, the number of simultaneous lasers the laser seeker head can discriminate, and data on the radar/infrared frequency is classified CONFIDENTIAL.

23. GBU-39 (2501b) Small Diameter Bomb (SDB-I) The Guided Bomb Unit-39 (GBU-39/B) small diameter bomb (SDB) is a 250-lb class precision guided munition that is intended to provide aircraft with an ability to carry a high number of bombs. The weapon offers day or night, adverse weather, precision engagement capability against pre-planned fixed or stationary soft, non-hardened, and hardened targets, and provides greater than 50 NM standoff range. Aircraft are able to carry four SDBs in place of one 2,000-lb bomb. The SDB is equipped with a GPS-aided inertial navigation system to attack fixed, /stationary targets such as fuel depots and bunkers. The SDB and all of its components are SECRET; technical data is classified up to SECRET.

24. GBU-10/12/16/58 Paveway II (PWII), a Laser Guided Bomb (LGB), is a maneuverable, free-fall weapon that guides to a spot of laser energy reflected off of the target. The LGB is delivered like a normal general purpose (GP) warhead and the semi-active guidance corrects for many of the normal errors inherent in any delivery system. Laser designation for the LGB can be provided by a variety of laser target markers or designators. A LGB consists of a Computer Control Group (CCG) that is not warhead specific, and a warhead specific Air Foil Group (AFG) that attaches to the nose and tail of a GP bomb body. The PWII can use either the FMU-152 or FMU-139D/B fuzes. The overall weapon is CONFIDENTIAL. The GBU-10 is a 2,0001b (MK-84 or BLU-117 B/B) GP bomb body fitted with the MXU-651 AFG, and MAU-209C/B or MAU-169 L/B CCG to guide to its laser designated target. The GBU-12 is a 5001b (MK-82 or BLU-111 B/B) GP bomb body fitted with the MXU-650 AFG, and MAU-209C/B or MAU-168L/B CCGs to guide to its laser designated target. The GBU-16 is a 1,0001b (BLU-110 B/B or MK-83) GP bomb body fitted with the MXU-650 airfoil and MAU-209C/B or MAU-168L/B CCGs to guide to its laser designated target. The GBU-58 is a 2501b (BLU-110 B/B or MK-83) GP bomb body fitted with the MXU-650 airfoil and MAU-209C/B or MAU-168L/B CCGs to guide to its laser designated target.

25. M61 20mm Vulcan Cannon: The 20mm Vulcan cannon is a six barreled automatic cannon chambered in 20x120mm with a cyclic rate of fire from 2,500-6,000 shots per minute. This weapon is a hydraulically powered air cooled Gatling gun used to damage/destroy aerial targets, suppress/incapacitate personnel targets and damage or destroy moving and stationary light materiel targets. The M61 and its components are UNCLASSIFIED.

26. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

27. A determination has been made that Morocco can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

28. All defense articles and services listed in this transmittal are authorized for release and export to the Government of Morocco.

[FR Doc. 2019–12443 Filed 6–12–19; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF EDUCATION

### Applications for New Awards; State Tribal Education Partnership (STEP)—Tribal Education Agency Development Discretionary Grant Program (STEP Development)

**AGENCY:** Office of Elementary and Secondary Education, Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2019 for State Tribal Education Partnership (STEP), Catalog of Federal Domestic Assistance (CFDA) number 84.415A. This notice relates to the approved information collection under OMB control number 1894–0006.

**DATES:**

*Applications Available:* June 13, 2019.

*Deadline for Notice of Intent to Apply:* June 28, 2019.

*Deadline for Transmittal of Applications:* August 12, 2019.

*Deadline for Intergovernmental Review:* October 11, 2019.

*Pre-Application Webinar Information:* The Department will hold a pre-application meeting via webinar for prospective applicants on a date to be determined. Individuals interested in attending this meeting are encouraged to pre-register by emailing their name, organization, and contact information with the subject heading ''STEP GRANTS PRE-APPLICATION MEETING'' to *shahla.ortega@ed.gov.* There is no registration fee for attending this meeting.

**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:** Shahla Ortega, U.S. Department of Education, 400 Maryland Avenue SW, Room 3W245, Washington, DC 20202–6450. Telephone: (202) 453–5602. Email: *shahla.ortega@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 purposes of the STEP program are to: (1) Promote Tribal self-determination in education; (2) improve the academic achievement of Indian children and youth; and (3) promote the coordination and collaboration of Tribal educational agencies (TEAs) with State educational agencies (SEAs) and local educational agencies (LEAs) to meet the unique education and culturally related academic needs of Indian students.

*Background:*

STEP was revised under section 6132 of the Elementary and Secondary Education Act (ESEA) to include one-year grants to Indian Tribes (as defined in this notice) that do not have a TEA, or Tribal organizations approved by an Indian Tribe that do not have a TEA, to develop a TEA.

Our intent for this competition is to provide one-year grants to support Tribes' creation of TEAs (as defined in this notice) so that they will be eligible to apply for a three-year STEP grant in future fiscal years. Therefore, we have designed elements of this competition to maximize alignment between the one- and three-year programs. For example, in order to receive funding, an applicant must demonstrate that it has at least one full-time employee on staff who works exclusively on education issues. We believe that it will be critically important for Indian Tribes receiving a one-year STEP grant to have staff in place from the beginning of their projects in order to successfully meet program outcomes and have a TEA in place by the end of the project period and, thus, be eligible to compete for a three-year grant in future fiscal years. We also require that, at the end of the one-year project, grantees be able to demonstrate that they meet the program outcomes and have at least two other characteristics of a successful TEA, in addition to having at least one full-time employee dedicated to education issues.

In accordance with the Department's commitment to engage in regular and meaningful consultation and collaboration with Indian Tribes, the Office of Elementary and Secondary Education (OESE), Office of Indian Education (OIE), and the White House Initiative on American Indian and Alaska Native Education conducted a Tribal Consultation regarding the reauthorized STEP program. Consistent with the Department's trust responsibility to Tribes and its Tribal Consultation Policy, OESE consulted with elected officials of federally recognized Tribes to ensure that their views inform OESE's policy decisions related to the priorities, requirements, definitions, and selection criteria that govern this competition. OIE will respond to the Tribal Consultation in a separate correspondence. At the Tribal Consultation there was significant interest in providing opportunities for Tribes that do not have a TEA to create one. This notice respects this Tribal interest by is establishing an invitational priority, definitions, and requirements consistent with supporting the creation of new TEAs.

In addition, the Department remains focused on supporting innovative strategies for improving delivery of educational services to the Nation's students, consistent with the Secretary's Supplemental Priority entitled ''Promoting Innovation and Efficiency, Streamlining Education with an Increased Focus on Improving Student Outcomes, and Providing Increased Value to Students and Taxpayers'' (83 FR 9096). In the context of the FY 2019 STEP competition, we are especially interested in Tribes' and Tribal organizations' approaches to forming TEAs that are well-positioned to deliver services that will meet the specific needs of the Native students in their communities, further promoting Tribal self-determination in education. We believe that applicants may be better positioned to create successful and sustainable TEAs if they work closely with other organizations in the community from the beginning. For example, we believe that engaging meaningfully with community stakeholders may help Tribes lay the groundwork for how their TEAs will develop school improvement plans or native language assessments, or revise schoolwide project plans, under Title I, Part A of the ESEA. Therefore, we are including an invitational priority in this competition for applicants that propose to engage with other stakeholders in the community, such as nonprofit organizations, private organizations, and local businesses, in designing their TEA.

*Priority:* Under this competition we are particularly interested in applications that address the following priority.

*Invitational 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 invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

*Promoting Sustainability through Community Engagement.*

This priority is for applicants who propose to develop their TEA in coordination with local stakeholders, such as nonprofit organizations, private organizations, and local businesses, for the purposes of (1) improving alignment of planned educational services to be delivered by the TEA with the needs of Native students in the community and (2) ensuring sustained community engagement at the end of the 12-month project.

*Requirements:* We are establishing these application and program requirements for the FY 2019 grant competition, and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

*Application Requirements:* Each application must contain a plan that includes the following:

(a) A description of the objectives to be achieved and the activities to be conducted to develop a TEA and to meet the program outcomes in program requirement (c) by the end of this grant period;

(b) a timetable for accomplishing each of the objectives and activities that the applicant will undertake to achieve the program outcomes in program requirement (c);

(c) an assurance that the applicant does not have a TEA;

(d) a description of, and evidence of, past collaboration with State and local education entities;

(e) evidence that demonstrates the applicant has resources, including at least one full-time staff member assigned exclusively to support development of the expertise, staffing, and infrastructure needed to establish and sustain a TEA, and may include funding or in-kind resources from the Tribe dedicated to supporting Tribal students' education;

(f) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and for determining whether such objectives are achieved; and

(g) for applicants that are Tribal organizations (as defined in this notice), evidence of Tribal approval from every Tribe for which it is applying to be the applicant on their behalf.

Under ESEA section 6132(d)(3), in their applications, applicants must also—

(h) demonstrate that the eligible applicant has consulted with other education entities, if any, within the territorial jurisdiction of the applicant that will be affected by the activities to be conducted under the grant;

(i) describe the consultation with such other education entities in the operation and evaluation of the activities conducted under the grant; and

(j) demonstrate that there will be adequate resources provided under this program or from other sources to complete the activities for which assistance is sought.

*Program Requirements:* Applicants that receive grants under this program must meet the following requirements:

(a) Each grantee must use program funds to create a TEA and meet the program outcomes in paragraph (c).

(b) Grantees must engage in collaborative efforts that will allow the TEA to build partnerships with SEAs and LEAs.

(c) Program outcomes: At the end of the project period, grantees must demonstrate that their TEA has at least one full-time staff member dedicated to education issues and at least two of the following:

(1) A tribally sanctioned education code that is informed by available research on improving Indian student outcomes.

(2) Tribally sanctioned and culturally relevant curricula and professional development strategies focused on culturally relevant instruction.

(3) A partnership with an SEA or LEA that—

(i) Promotes Tribal self-determination in education;

(ii) Is designed to improve the academic achievement of Indian children and youth;

(iii) Promotes coordination and collaboration with SEAs and LEAs to meet the unique education and culturally related academic needs of Indian students;

(iv) Builds capacity to administer and coordinate education programs, and to improve the relationship and coordination with SEAs and LEAs that educate students from the Tribe;

(v) Includes training and support from the SEA and LEA to the TEA, in areas such as data collection and analysis, grants management and monitoring, fiscal accountability, and other areas as needed; and

(vi) Includes training and support from the TEA to the SEA and LEA in areas related to Tribal history, language, or culture.

(4) Committed resources (*e.g.,* funding, staff, office space) from the Tribe or Tribes.

ISDEAA Hiring Preference:

(a) Awards that are primarily for the benefit of Indians are subject to the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638). That section requires that, to the greatest extent feasible, a grantee—

(1) give to Indians preferences and opportunities for training and employment in connection with the administration of the grant; and

(2) give to Indian organizations and to Indian-owned economic enterprises, as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452(e)), preference in the award of contracts in connection with the administration of the grant.

(b) For purposes of this section, an Indian is a member of any federally recognized Indian tribe.

*Definitions:* The definitions of ''Indian Tribe'' and ''Tribal educational agency'' are from section 6132 of the ESEA. The definition of ''relevant outcome'' is from 34 CFR 77.1(c). We are establishing the definition of ''Tribal Organization'' for the FY 2019 grant competition, and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1). The following definitions apply to this competition:

*Indian Tribe* means a federally-recognized or a State-recognized Tribe.

*Relevant outcome* means the student outcome(s) or other outcome(s) the key project component is designed to achieve, consistent with the specific goals of the program.

*Tribal educational agency (TEA)* means the agency, department, or instrumentality of an Indian Tribe that is primarily responsible for supporting Tribal students' elementary and secondary education.

*Note:* For purposes of this program, this term also includes an agency, department, or instrumentality of more than one Tribe, if the Tribes are in close geographic proximity to each other.

*Tribal organization* means an Indian organization that—

(1) Is legally established—

(i) By Tribal or inter-Tribal charter or in accordance with State or Tribal law; and

(ii) With appropriate constitution, by-laws, or articles of incorporation;

(2) Includes in its purposes the promotion of the education of Indians;

(3) Is controlled by a governing board, the majority of which is Indian;

(4) If located on an Indian reservation, operates with the sanction of or by charter from the governing body of that reservation;

(5) Is neither an organization or subdivision of, nor under the direct

control of, any institution of higher education; and

(6) Is not an agency of State or local government.

*Waiver of Proposed Rulemaking:* Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed requirements and definitions. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under section 6132 of the ESEA (20 U.S.C. 7452), and, therefore, qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forgo public comment on the requirements and definitions under section 437(d)(1) of GEPA. These requirements and definitions will apply to the FY 2019 competition, and any subsequent year in which we make awards from the list of unfunded applications from this competition.

*Program Authority:* The program is authorized under section 6132(c)(1) of the ESEA, Grants To Tribes For Education, Administrative Planning, Development, And Coordination, 20 U.S.C. 7452.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474.

*Note:* The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

## II. Award Information

*Type of Award:* Discretionary grants.

*Estimated Available Funds:* $1,600,000.

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 Range of Awards:* $150,000 to $500,000.

*Estimated Average Size of Awards:* $350,000.

*Estimated Number of Awards:* 3–10.

*Note:* The Department is not bound by any estimates in this notice.

*Project Period:* Up to 12 months.

## III. Eligibility Information

1. *Eligible Applicants:* Indian Tribes that do not have a TEA, Tribal organizations approved by an Indian Tribe that do not have a TEA, or a consortium of such entities.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements.

4. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

## IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain information on how to submit an application.

2. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

3. *Funding Restrictions:* Funding restrictions are outlined in section 6132 (20 U.S.C.7452(3)(e)): (1) An Indian Tribe may not receive funds under this section if such Tribe receives funds under section 1140 of the Education Amendments of 1978 (20 U.S.C. 2020); and (2) no funds under this section may be used to provide direct services.

We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:*

The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative.

5. *Notice of Intent to Apply:* The Department will be able to review grant applications more efficiently if we know the approximate number of applicants that intend to apply. Therefore, we strongly encourage each potential applicant to notify us of their intent to submit an application. To do so, please email the program contact person listed under **FOR FURTHER INFORMATION CONTACT** with the subject line ''Intent to Apply,'' and include the applicant's name and a contact person's name and email address. Applicants that do not submit a notice of intent to apply may still apply for funding; applicants that do submit a notice of intent to apply are not bound to apply or bound by the information provided.

## V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 75.210. We will award up to 100 points to an application under the selection criteria; the total possible points for each selection criterion are noted in parentheses.

a. *Quality of the Project Design* (Maximum 45 points). The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (up to 10 points)

(ii) The extent to which the proposed project will integrate with or build on similar or related efforts to improve relevant outcomes (as defined in this notice), using existing funding streams from other programs or policies supported by community, State, and Federal resources. (up to 10 points)

(iii) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population. (up to 10 points)

(iv) The extent to which the proposed project encourages parental involvement. (up to 10 points)

(v) The extent to which the methods of evaluation are appropriate to the context within which the project operates. (up to 5 points)

b. *Adequacy of Resources* (Maximum 40 points). The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization. (up to 10 points)

(ii) The qualifications, including relevant training and experience, of the project director or principal investigator. (up to 10 points)

(iii) The qualifications, including relevant training and experience, of key project personnel. (up to 5 points)

(iv) The qualifications, including relevant training and experience, of project consultants or subcontractors. (up to 5 points)

(v) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support. (up to 10 points)

c. *Quality of the Management Plan* (Maximum 15 points). The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the extent to which the 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. (up to 15 points)

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 also 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 program, the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

## VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case, the Secretary establishes a data collection period.

5. *Performance Measure:*

The number of Tribes that create a TEA by the end of the grant period.

## 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.

**Frank T. Brogan,**

*Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 2019–12500 Filed 6–12–19; 8:45 am]

**BILLING CODE 4000–01–P**

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## DEPARTMENT OF EDUCATION

### Applications for New Awards; American Indian Vocational Rehabilitation Services (AIVRS)

**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. As such, the Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2019 for American Indian Vocational Rehabilitation Services—Catalog of Federal Domestic Assistance (CFDA) Number 84.250M—to partner with Indian Tribes in providing eligible American Indians with disabilities with vocational rehabilitation services. This notice relates to the approved information collection under OMB control number 1820–0018.

**DATES:** *Applications Available:* June 13, 2019.

*Deadline for Transmittal of Applications:* July 29, 2019.

*Pre-Application Webinar Information:* No later than June 18, 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 18, 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 July 2, 2019. After the blog closes, applicants should direct questions to the person listed under **FOR FURTHER INFORMATION CONTACT**.

**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:** August Martin, U.S. Department of Education, 400 Maryland Avenue SW, Room 5064A, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–7410. Email: *August.Martin@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 purpose of this program is to provide vocational rehabilitation (VR) services, including culturally appropriate services, to American Indians with disabilities who reside on or near Federal or State reservations, consistent with such eligible individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individual may prepare for, and engage in, high-quality employment that will increase opportunities for economic self-sufficiency.

*Priority:* In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from section 121(b)(4) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 741(b)(4)).

*Competitive Preference 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 a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award an additional five points to an application that meets this priority.

This priority is: *Continuation of Previously Funded Tribal Programs.*

In making new awards under this program, we give priority to applications for the continuation of programs that have been funded under the AIVRS program.

**Program Authority:** 29 U.S.C. 741.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 81, 82, and 84. (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 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 371.

## II. Award Information

*Type of Award:* Discretionary grants.

*Estimated Available Funds:* $21,265,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2020 from the list of unfunded applications from this competition.

*Estimated Range of Awards:* $365,000–$650,000.

*Estimated Average Size of Awards:* $510,000.

*Estimated Number of Awards:* 42.

*Note:* The Department is not bound by any estimates in this notice.

*Project Period:* Up to 60 months.

**III. Eligibility Information**

1. *Eligible Applicants:* Applications may be made only by Indian Tribes (and consortia of those Indian Tribes) located on Federal and State reservations. The definition of ''Indian Tribe'' in section 7(19)(B) of the Rehabilitation Act of 1973, as amended, is ''any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act) and a tribal organization (as defined in section 4(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1)).''

''Reservation'' is defined in 34 CFR 371.6 as ''a Federal or State Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, land held by incorporated Native groups, regional corporations and village corporations under the provisions of the Alaska Native Claims Settlement Act; or a defined area of land recognized by a State or the Federal Government where there is a concentration of tribal members and on which the tribal government is providing structured activities and services.''

The applicant for an AIVRS grant must be—

(1) The governing body of an Indian Tribe, either on behalf of the Indian Tribe or on behalf of a consortium of Indian Tribes; or

(2) A Tribal organization that is a separate legal organization from an Indian Tribe.

In order to receive an AIVRS grant, a Tribal organization that is not a governing body of an Indian Tribe must—

(1) Have as one of its functions the vocational rehabilitation of American Indians with disabilities; and

(2) Have the approval of the Tribe to be served by such organization.

If a grant is made to the governing body of an Indian Tribe, either on its own behalf or on behalf of a consortium, or to a Tribal organization to perform services benefiting more than one Indian Tribe, the approval of each such Indian Tribe shall be a prerequisite to the making of such a grant.

2. *Cost Sharing or Matching:* Cost sharing is required by section 121(a) of the Rehabilitation Act of 1973, as amended, and 34 CFR 371.40 at 10 percent of the total cost of the project.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application. While subgrants are not permitted, under 34 CFR 371.42(a), grantees are permitted to provide the vocational rehabilitation services by contract or otherwise enter into an agreement with a designated State unit (DSU), a community rehabilitation program, or another agency to assist in the implementation of the Tribal vocational rehabilitation program, as long as such arrangement is identified in the application.

**IV. Application and Submission Information**

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This competition is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

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, have a maximum score of 100 points, and are as follows:

(a) *Need for Project and Significance* (10 Points):

The Secretary considers the need for and significance of the proposed project. In determining the need for and significance of the proposed 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 extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(iii) The potential contribution of the proposed project to increased knowledge or understanding of rehabilitation problems, issues, or effective strategies.

(iv) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population.

(b) *Quality of the Project Design* (20 Points):

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) 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.

(iii) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population.

(c) *Quality of Project Services* (20 Points):

The Secretary considers the quality of the services to be provided by the proposed project. 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.

In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services.

(ii) The likely impact of the services to be provided by the proposed project on the intended 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* (15 Points):

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.

In addition, the Secretary considers the qualifications, including relevant training and experience, of key project personnel.

(e) *Adequacy of Resources* (10 Points):

The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(ii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(iii) 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.

(f) *Quality of the Management Plan* (15 Points): The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(iii) The extent to which the 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.

(g) *Quality of the Project Evaluation* (10 Points): The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

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).

The services and activities funded by grants under the AIVRS program must be operated in a manner consistent with nondiscrimination requirements contained in the U.S. Constitution and Federal civil rights laws.

Special application requirements related to the AIVRS program require each applicant to provide evidence separately for each of the following items in 34 CFR 371.21(a)–(k):

(a) Effort will be made to provide a broad scope of vocational rehabilitation services in a manner and at a level of quality at least comparable to those services provided by the designated State unit.

(b) All decisions affecting eligibility for vocational rehabilitation services, the nature and scope of available vocational rehabilitation services and the provision of such services will be made by a representative of the Tribal vocational rehabilitation program funded through this grant and such decisions will not be delegated to another agency or individual.

(c) Priority in the delivery of vocational rehabilitation services will be given to those American Indians with disabilities who are the most significantly disabled.

(d) An order of selection of individuals with disabilities to be served under the program will be specified if services cannot be provided to all eligible American Indians with disabilities who apply.

(e) All vocational rehabilitation services will be provided according to an individualized plan for employment which has been developed jointly by the representative of the Tribal vocational rehabilitation program and each American Indian with disabilities being served.

(f) American Indians with disabilities living on or near Federal or State reservations where Tribal vocational rehabilitation service programs are being carried out under this part will have an opportunity to participate in matters of general policy development and implementation affecting vocational rehabilitation service delivery by the Tribal vocational rehabilitation program.

(g) Cooperative working arrangements will be developed with the DSU, or DSUs, as appropriate, which are providing vocational rehabilitation services to other individuals with disabilities who reside in the State or States being served.

(h) Any comparable services and benefits available to American Indians with disabilities under any other program, which might meet in whole or in part the cost of any vocational rehabilitation service, will be fully considered in the provision of vocational rehabilitation services.

(i) Any American Indian with disabilities who is an applicant or recipient of services, and who is dissatisfied with a determination made by a representative of the Tribal vocational rehabilitation program and files a request for a review, will be afforded a review under procedures developed by the grantee comparable to those under the provisions of section 102(c)(1)–(5) and (7) of the Act.

(j) The Tribal vocational rehabilitation program funded under this part must assure that any facility used in connection with the delivery of vocational rehabilitation services meets facility and program accessibility requirements consistent with the requirements, as applicable, of the Architectural Barriers Act of 1968, the Americans with Disabilities Act of 1990, section 504 of the Act, and the regulations implementing these laws.

(k) The Tribal vocational rehabilitation program funded under this part must ensure that providers of vocational rehabilitation services are able to communicate in the native language of, or by using an appropriate mode of communication with, applicants and eligible individuals who have limited English proficiency, unless it is clearly not feasible to do so.

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 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. *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.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established four performance measures for the AIVRS program. The measures are:

(1) The percentage of individuals who leave the program with an employment outcome after receiving services under an individualized plan for employment;

(2) The percentage of individuals the project proposed to serve under an Individualized Plan for Employment (IPE) during this reporting period who actually received VR services.

(3) The percentage of projects that demonstrate an average annual cost per employment outcome of no more than $35,000; and

(4) The percentage of projects that demonstrate an average annual cost of services per participant of no more than $10,000.

Each grantee must annually report the data needed to measure its performance on the GPRA measures through the Annual Performance Reporting Form (APR Form) for the American Indian Vocational Rehabilitation Services program.

*Note:* For purposes of this section, the term ''employment outcome'' means, with respect to an individual, (A) entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market; (B) satisfying the vocational outcome of supported employment; or (C) satisfying any other vocational outcome the Secretary of Education may determine to be appropriate (including satisfying the vocational outcome of customized employment, self-employment, telecommuting, or business ownership). (Section 7(11) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 705(11)).

5. *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**. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

*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. 2019–12471 Filed 6–12–19; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP19–471–000]**

### Bluewater Gas Storage, LLC; Notice of Application

Take notice that on March 23, 2019, Bluewater Gas Storage, LLC (Bluewater) 333 South Wales Center Road, Columbus, MI 48063, filed in Docket No. CP19–471–000, an application pursuant to section 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations to construct and maintain a new compressor station in Macomb County, Michigan adjacent to Bluewater's existing 20-inch-diameter pipeline. The proposed compressor station will deliver natural gas to Vector Pipeline L.P (Vector) using a single gas-driven turbine with a centrifugal compressor unit, which will provide approximately 11,150 nominal horsepower of compression. Bluewater's proposed Project is an operational upgrade that will restore the originally authorized 500,000 Mcf/d of firm delivery capacity of natural gas at its interconnect with Vector, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

The filing may also be viewed on the web at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Conor Ward, WEC Business Services LLC, 231 W Michigan Street, Milwaukee, WI 53203 at (414) 221–2539 or by email at *conor.ward@wecenergygroup.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 3 copies of filings made with the Commission and must provide a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list and will be notified of any meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

As of the February 27, 2018 date of the Commission's order in Docket No. CP16–4–001, the Commission will apply its revised practice concerning out-of-time motions to intervene in any new Natural Gas Act section 3 or section 7 proceeding.[1] Persons desiring to become a party to a certificate proceeding are to intervene in a timely manner. If seeking to intervene out-of-time, the movant is required to show good cause why the time limitation should be waived, and should provide justification by reference to factors set forth in Rule 214(d)(1) of the Commission's Rules and Regulations.[2]

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 3 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

*Comment Date:* 5:00 p.m. Eastern Time on June 28, 2019.

Dated: June 7, 2019.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2019–12458 Filed 6–12–19; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket Nos. CP14–347–000, CP19–19–000]**

### Magnolia LNG, LLC; Notice of Intent To Prepare a Supplemental Environmental Impact Statement for the Proposed Magnolia LNG Production Capacity Amendment and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare a supplemental environmental impact statement (supplemental EIS) that will discuss the potential environmental impacts resulting from Magnolia LNG, LLC's (Magnolia LNG) proposal to increase the liquefied natural gas (LNG) production capacity at its authorized LNG facility in Calcasieu, Louisiana from that previously approved by the Commission in Docket No. CP14–347–000 (Magnolia LNG Production Capacity Amendment). The Commission will use this supplemental EIS in its decision-making process to determine whether

[1] *Tennessee Gas Pipeline Company, L.L.C.,* 162 FERC 61,167 at 50 (2018).

[2] 18 CFR 385.214(d)(1).

Magnolia LNG's proposed amendment is in the public interest.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies about issues regarding the project amendment. The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from its action whenever it considers whether or not to authorize a project. NEPA also requires the Commission to discover concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the supplemental EIS on the important environmental issues. By this notice, the Commission requests public comments on the scope of issues to address in the supplemental EIS. Please note that your comments should be specific to the Production Capacity Amendment, which is described further below. Comments relating *only* to non-related aspects of the already approved Magnolia LNG Project will not be considered in the supplemental EIS. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on July 8, 2019.

You can make a difference by submitting your specific comments or concerns about the project amendment. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the supplemental EIS.

This notice is being sent to the Commission's current environmental mailing list for this project amendment. State and local government representatives should notify their constituents of this proposed project amendment and encourage them to comment on their areas of concern.

## Public Participation

The Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. To sign up go to *www.ferc.gov/docs-filing/esubscription.asp.*

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on *eRegister.* You will be asked to select the type of filing you are making; a comment on a particular project is considered a Comment on a Filing; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project amendment docket number (CP19–19–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Please note this is not your only public input opportunity; a 45-day public comment period will be established once the draft supplemental EIS is issued.

## Summary of the Proposed Project Amendment

Magnolia LNG requests authorization to increase the previously authorized LNG production capacity of the Magnolia LNG Project (Docket No. CP14–347–000) from 8 million tons per annum (MTPA) to 8.8 MTPA. Magnolia LNG states that the increased LNG production capacity would be realized through the optimization of its final design and would not require any increase in the authorized feed gas rates. Magnolia LNG does not propose any additional construction or new or modified facilities already considered and approved in Docket No. CP14–347–000 (*i.e.,* the approved LNG terminal site in Lake Charles, Calcasieu Parish, Louisiana [1].) Magnolia LNG also affirms that the annual number of LNG takers (vessel traffic) would not change from that already reviewed and approved by the U.S. Coast Guard.

## The Supplemental EIS Process and Identified Issues

The supplemental EIS will discuss impacts that could occur as a result of the proposed increase in production capacity described above. To date, we have identified potential environmental concerns related to the proposed process conditions for LNG, anhydrous ammonia, and other process fluids. As a result, Magnolia LNG indicated revised hazard distances with increased offsite impacts. Therefore, associated hazard mitigation, such as impoundment designs and other fire protection systems need to be reevaluated as a result of the higher production rate. There may also be revisions to air emissions and noise levels; if so, these will be evaluated and discussed in the supplemental EIS. Commission staff will also evaluate reasonable alternatives to the proposed project amendment or portions of the project amendment, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The supplemental EIS will present Commission staffs' independent analysis of the issues. The draft supplemental EIS will be available in electronic format in the public record through eLibrary [2] and the Commission's website (*https://www.ferc.gov/industries/gas/enviro/eis.asp*). If eSubscribed, you will receive instant email notification when the draft EIS is issued. The draft EIS will be issued for an allotted public comment period. After the comment period on the draft EIS, Commission staff will consider all timely comments and revise the document, as necessary, before issuing a final EIS. To ensure Commission staff have the opportunity to address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, the Commission is asking agencies with jurisdiction by law

[1] The LNG terminal site location and staff's evaluation of the original (approved) Magnolia LNG Project are in the Commission's final EIS for the project, issued on November 13, 2015. That EIS is available at *www.ferc.gov* using the link called eLibrary or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

and/or special expertise with respect to the environmental issues of this project amendment to formally cooperate in the preparation of the supplemental EIS.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice. The U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration and the U.S. Coast Guard will participate as cooperating agencies in the preparation of the supplemental EIS.

**Environmental Mailing List**

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) for the original Magnolia LNG Project who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities (including the LNG terminal site), and anyone who submits comments on the project amendment. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project amendment.

A *Notice of Availability* of the draft EIS will be sent to the environmental mailing list and will provide instructions to access the electronic document on the FERC's website (*www.ferc.gov*). If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please return the attached ''Mailing List Update Form'' (appendix).[4]

**Additional Information**

Additional information about the project amendment is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on General Search and enter the docket number in the Docket Number field, excluding the last three digits (*i.e.,* CP19–19). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: June 7, 2019.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2019–12456 Filed 6–12–19; 8:45 am]

BILLING CODE 6717–01–P

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The return mailer appendix referenced in this notice will not appear in the **Federal Register**, but was sent to all those receiving this notice in the mail.

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP19–191–000]**

### Texas Eastern Transmission, L.P.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Bernville Compressor Units Replacement Project and Request for Comments on Environmental Issues

June 7, 2019.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Bernville Compressor Units Replacement Project involving the replacement of two existing compressor units at the Bernville Compressor Station by Texas Eastern Transmission, L.P. (Texas Eastern) in Berks County, Pennsylvania. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies about issues regarding the project. The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires the Commission to discover concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on July 8, 2019.

You can make a difference by submitting your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Commission staff will consider all filed comments during the preparation of the EA.

If you sent comments on this project to the Commission before the opening of this docket on April 18, 2019, you will need to file those comments in Docket No. CP19–191–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law.

Texas Eastern provided landowners with a fact sheet prepared by the FERC entitled An Interstate Natural Gas Facility On My Land? What Do I Need To Know? This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC website (*www.ferc.gov*) at *https://*

*www.ferc.gov/resources/guides/gas/gas.pdf.*

**Public Participation**

The Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. To sign up go to *www.ferc.gov/docs-filing/esubscription.asp.*

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on *eRegister.* You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP19–191–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426

**Summary of the Proposed Project**

Texas Eastern proposes to replace two existing compressor units at the Bernville Compressor Station in Berks, Pennsylvania. The replacement activities would require the use of additional temporary workspace beyond the existing facility boundary. The project would consist of the following new facilities:

- Installation one 26,000 horse-power (hp) and one 18,100 hp solar natural gas-fired centrifugal turbine compressor units and associated auxiliary piping and equipment;
- installation of related software controls that would limit the total hp of the 26,000 hp compressor unit to 23,700 hp;
- conversion of existing 3,070 square foot compressor unit building to a new office building and other related appurtenances.

The project would involve removing one 22,000 horsepower (hp) and one 19,800 hp natural gas-fired centrifugal turbine compressor unit and the associated auxiliary piping and equipment. The Project would also involve removing a 4,352 square-foot building, which houses the existing 22,000 hp compressor unit, to allow for the installation of an 11,780 square-foot building to house the two new replacement compressor units.

The general location of the project facilities is shown in appendix 1.

**Land Requirements for Construction**

The Project's replacement activities would require the use of land for temporary workspace beyond the existing compressor station boundary. The existing station lies within a fenced area encompassing approximately 13.4 acres. Construction of the project would disturb about 7.6 acres within the existing station fenceline and 10 acres outside of the fenceline. Texas Eastern would maintain 9.5 acres for permanent operation of the project's facilities following construction (1.9 acres of which would be outside of the existing fenceline on Texas Eastern property). The remaining acreage would be restored and revert to former uses.

**The EA Process**

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- air quality and noise;
- public safety; and
- cumulative impacts

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present Commission staffs' independent analysis of the issues. The EA will be available in electronic format in the public record through eLibrary [4] and the Commission's website (*https://www.ferc.gov/industries/gas/enviro/eis.asp*). If eSubscribed, you will receive instant email notification when the EA is issued. The EA may be issued for an allotted public comment period. Commission staff will consider all comments on the EA before making recommendations to the Commission. To ensure Commission staff have the opportunity to address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the EA.[1] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

**Consultation Under Section 106 of the National Historic Preservation Act**

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office, and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[2] The EA for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

**Environmental Mailing List**

The environmental mailing list includes: Federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; libraries; newspapers; and other interested parties. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose

[1] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[2] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If the Commission issues the EA for an allotted public comment period, a *Notice of Availability* of the EA will be sent to the environmental mailing list and will provide instructions to access the electronic document on the FERC's website (*www.ferc.gov*). *If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please return the attached ''Mailing List Update Form'' (appendix 2).*

**Additional Information**

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on General Search and enter the docket number in the Docket Number field, excluding the last three digits (*i.e.,* CP19–191). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: June 7, 2019.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2019–12459 Filed 6–12–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG19–122–000.
*Applicants:* Talen Montana, LLC.
*Description:* Notice of Self-Certification of Exempt Wholesale Generator Status of Talen Montana, LLC.
*Filed Date:* 6/7/19.
*Accession Number:* 20190607–5055.
*Comments Due:* 5 p.m. ET 6/28/19.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–1789–007; ER10–1768 006; ER10–1770 006; ER10–1771 006; ER10–1793 006; ER12–1250 006; ER16–1924 004; ER16–1925 004; ER16–1926 004; ER16–2725 004; ER17–2426 002; ER19–1738 001.
*Applicants:* PSEG Energy Resources & Trade LLC, PSEG Energy Solutions LLC, PSEG Fossil LLC, PSEG New Haven LLC, PSEG Nuclear LLC, PSEG Power Connecticut LLC, Pavant Solar II LLC, Bison Solar LLC, San Isabel Solar LLC, Public Service Electric and Gas Company, PSEG Keys Energy Center LLC, PSEG Fossil Sewaren Urban Renewal LLC.
*Description:* Notice of Non-Material Change in Status of the PSEG Affiliates.
*Filed Date:* 6/6/19.
*Accession Number:* 20190606–5138.
*Comments Due:* 5 p.m. ET 6/27/19.

*Docket Numbers:* ER10–2437–014.
*Applicants:* Arizona Public Service Company.
*Description:* Notice of Change in Status of Arizona Public Service Company.
*Filed Date:* 6/6/19.
*Accession Number:* 20190606–5134.
*Comments Due:* 5 p.m. ET 6/27/19.

*Docket Numbers:* ER19–1342–000; ER19–1343–000.
*Applicants:* NMRD Data Center III, LLC.
*Description:* Second Supplement to March 18, 2019 NMRD Data Center III, LLC, et al. tariff filings.
*Filed Date:* 6/6/19.
*Accession Number:* 20190606–5133.
*Comments Due:* 5 p.m. ET 6/17/19.

*Docket Numbers:* ER19–2062–001.
*Applicants:* AEP Texas Inc.
*Description:* Tariff Amendment: AEPTX-Callahan Wind GIA 1st Amend & Restated Amendment to be effective 5/22/2019.
*Filed Date:* 6/6/19.
*Accession Number:* 20190606–5095.
*Comments Due:* 5 p.m. ET 6/27/19.

*Docket Numbers:* ER19–2067–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 2562R7 Kansas Municipal Energy Agency NITSA and NOA to be effective 9/1/2019.
*Filed Date:* 6/7/19.
*Accession Number:* 20190607–5016.
*Comments Due:* 5 p.m. ET 6/28/19.

*Docket Numbers:* ER19–2068–000.
*Applicants:* Duke Energy Carolinas, LLC.
*Description:* § 205(d) Rate Filing: DEC–8 Towns Dynamic Transfer Agreements to be effective 6/8/2019.
*Filed Date:* 6/7/19.
*Accession Number:* 20190607–5017.
*Comments Due:* 5 p.m. ET 6/28/19.

*Docket Numbers:* ER19–2069–000.
*Applicants:* Northern States Power Company, a Minnesota corporation.
*Description:* § 205(d) Rate Filing: 2019–06–07 NSP–MMPA–I&I Agrmt–3–0.1.0–NOC to be effective 6/8/2019.
*Filed Date:* 6/7/19.
*Accession Number:* 20190607–5058.
*Comments Due:* 5 p.m. ET 6/28/19.

*Docket Numbers:* ER19–2070–000.
*Applicants:* PacifiCorp.
*Description:* § 205(d) Rate Filing: Colstrip Trans System LGIA—Concurrence Clearwater Energy to be effective 5/21/2019.
*Filed Date:* 6/7/19.
*Accession Number:* 20190607–5059.
*Comments Due:* 5 p.m. ET 6/28/19.

*Docket Numbers:* ER19–2071–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 2198R27 Kansas Power Pool NITSA NOA to be effective 9/1/2019.
*Filed Date:* 6/7/19.
*Accession Number:* 20190607–5061.
*Comments Due:* 5 p.m. ET 6/28/19.

*Docket Numbers:* ER19–2072–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* § 205(d) Rate Filing: Amendment to ISA Nos. 2639 & 3378, Queue Nos. T109_T110 & W2–010_W2011 (amend) to be effective 8/30/2010.
*Filed Date:* 6/7/19.
*Accession Number:* 20190607–5072.
*Comments Due:* 5 p.m. ET 6/28/19.

*Docket Numbers:* ER19–2073–000
*Applicants:* California Independent System Operator Corporation.
*Description:* Tariff Cancellation: 2019–06–07 Gates-Gregg Project APSA Notice of Termination to be effective 6/1/2019.
*Filed Date:* 6/7/19.
*Accession Number:* 20190607–5073.
*Comments Due:* 5 p.m. ET 6/28/19.

*Docket Numbers:* ER19–2074–000.
*Applicants:* Idaho Power Company.
*Description:* § 205(d) Rate Filing: EIM Clarifications and Tariff Cleanup to be effective 8/16/2019.
*Filed Date:* 6/7/19.
*Accession Number:* 20190607–5083.

*Comments Due:* 5 p.m. ET 6/28/19.

*Docket Numbers:* ER19–2075–000.

*Applicants:* NorthWestern Corporation.

*Description:* § 205(d) Rate Filing: SA591 8th Rev—NITSA with Benefis Health System to be effective 7/1/2019.

*Filed Date:* 6/7/19.

*Accession Number:* 20190607–5084.

*Comments Due:* 5 p.m. ET 6/28/19.

*Docket Numbers:* ER19–2076–000.

*Applicants:* NorthWestern Corporation.

*Description:* § 205(d) Rate Filing: SA305 14th Rev—NITSA with Stillwater Mining Company to be effective 7/1/2019.

*Filed Date:* 6/7/19.

*Accession Number:* 20190607–5085.

*Comments Due:* 5 p.m. ET 6/28/19.

*Docket Numbers:* ER19–2077–000.

*Applicants:* Public Service Company of Colorado.

*Description:* § 205(d) Rate Filing: OATT Att O–PSCo Deprec/TCJA Filing—DRAFT to be effective 1/1/2018.

*Filed Date:* 6/7/19.

*Accession Number:* 20190607–5086.

*Comments Due:* 5 p.m. ET 6/28/19.

*Docket Numbers:* ER19–2078–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Amendment to ISA SA No. 5034; Queue No. AC1–097 to be effective 3/7/2018.

*Filed Date:* 6/7/19.

*Accession Number:* 20190607–5095.

*Comments Due:* 5 p.m. ET 6/28/19.

*Docket Numbers:* ER19–2079–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2019–06–07_SA 3311 Indian Lakes Upgrade MPFCA (J928 J849) to be effective 5/23/2019.

*Filed Date:* 6/7/19.

*Accession Number:* 20190607–5096.

*Comments Due:* 5 p.m. ET 6/28/19.

*Docket Numbers:* ER19–2080–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: East River Formula Rate Revisions to Modify Depreciation Rates to be effective 1/1/2019.

*Filed Date:* 6/7/19.

*Accession Number:* 20190607–5119.

*Comments Due:* 5 p.m. ET 6/28/19.

*Docket Numbers:* ER19–2081–000.

*Applicants:* Midcontinent Independent System Operator, Inc., Troutman Sanders LLP.

*Description:* § 205(d) Rate Filing: 2019–06–07_SA 1926 & SA 3315 METC–CE DTIA and TSA to be effective 12/31/9998.

*Filed Date:* 6/7/19.

*Accession Number:* 20190607–5121.

*Comments Due:* 5 p.m. ET 6/28/19.

*Docket Numbers:* ER19–2082–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: 3211R1 North Iowa Municipal Electric Cooperative Association NITSA and NOA to be effective 6/1/2019.

*Filed Date:* 6/7/19.

*Accession Number:* 20190607–5129.

*Comments Due:* 5 p.m. ET 6/28/19.

*Docket Numbers:* ER19–2083–000.

*Applicants:* Golden Spread Electric Cooperative, Inc.

Description: § 205(d) Rate Filing: Amended and Restated WPC—Rider F and Rev Def to be effective 6/1/2019.

*Filed Date:* 6/7/19.

*Accession Number:* 20190607–5130.

*Comments Due:* 5 p.m. ET 6/28/19.

Take notice that the Commission received the following electric securities filings:

*Docket Numbers:* ES19–32–000.

*Applicants:* New York State Electric & Gas Corporation, Rochester Gas and Electric Corporation, Central Maine Power Company, The United Illuminating Company.

*Description:* Application under Section 204 of the Federal Power Act for Authorization to Issue Securities, et al. of Avangrid Service Company, on behalf of its affiliate companies.

*Filed Date:* 6/7/19.

*Accession Number:* 20190607–5018.

*Comments Due:* 5 p.m. ET 6/28/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 7, 2019.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2019–12457 Filed 6–12–19; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OAR–2019–0316; FRL–9995–04–OAR]**

## Request for Nominations: Scientific Peer Reviewers; Potential Approaches for Characterizing the Estimated Benefits of Reducing $PM_{2.5}$ at Low Concentrations

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) invites the public to nominate scientific experts to be considered as peer reviewers for the EPA-drafted report titled, ''Potential Approaches for Characterizing the Estimated Benefits of Reducing $PM_{2.5}$ at Low Concentrations''. A nominee, if selected, will assess the accuracy, content, and interpretation of findings of the report, ensuring that they are factual and scientifically sound. The peer review will provide input to EPA regarding the merits of the technical approaches.

**DATES:** The nomination period begins on June 13, 2019 and ends on July 5, 2019.

**ADDRESSES:** Submit the nominations, identified by docket ID number EPA–HQ–OAR–2019–0316. In addition, the nomination must include the nominee's full name, address, affiliation, telephone number, email address, and a statement on the nominee's expertise. Use one of the following submission methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting nominations.
- *Email: a-and-r-Docket@epa.gov.* Include the Docket ID No. EPA–HQ–OAR–2019–0316 in the subject line of the message.
- *Fax:* (202) 566–9744. Include the Docket ID No. EPA–HQ–OAR–2019–0316 in the subject line of the message.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery/Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

*Instructions:* All submissions received must include the Docket ID No. for this Notice. Submissions received may be posted without change to *https://www.regulations.gov,* including any

personal information provided. For detailed instructions on sending submissions, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Neal Fann, Health and Environmental Impacts, Office of Air Quality Planning and Standards (C–439–02), Environmental Protection Agency, 109 T.W. Alexander Drive, Durham, NC 27711. Phone: (919) 541–0209, Fax: (919) 541–5315, Email: *Fann.Neal@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. General Information

Submit your nomination, identified by Docket ID No. EPA–HQ–OAR–2019–0316, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, submissions cannot be edited or removed from the docket. The EPA may publish any submission 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 submission. The written submission is considered the official submission and should include discussion of all points you wish to make. The EPA will generally not consider submissions or submission content 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.*

## II. Background

The EPA uses evidence from long-term exposure cohort studies to estimate the number of $PM_{2.5}$-related premature deaths and morbidity effects in its air pollution benefits analyses. Generally, the U.S. EPA quantifies effects for the full distribution of ambient $PM_{2.5}$ concentrations, including at concentrations below the lowest measured levels (LML) of these studies; this reflects the current scientific evidence, which does not find a threshold in the concentration-response relationship. However, because of the absence of data at such low concentrations, there is greater uncertainty about the likelihood of health effects, including premature death. The degree of uncertainty associated with premature deaths estimated at these lower levels has over time taken on greater prominence, due in part to decreasing ambient $PM_{2.5}$ concentrations, the public health importance of $PM_{2.5}$-associated mortality, and the magnitude of the economic value of the effect. As a means of improving its methods for quantifying and characterizing effects estimated at these lower $PM_{2.5}$ levels, the Agency is developing and evaluating potential alternative approaches for estimating these effects. Potential approaches will be described in a U.S. EPA report. This report will: Detail new techniques for deriving information regarding uncertainty at low $PM_{2.5}$ concentrations using data available from the peer-reviewed published epidemiology literature; demonstrate the application of these techniques in an example $PM_{2.5}$ air pollution benefits assessment; discuss the strengths and weaknesses of each technique; and, compare these techniques against alternatives including the use of lowest measured level cut-points or the use of meta-analytic approaches designed to characterize the magnitude of the PM mortality effect across a broader array of concentrations. This report will be subject to an independent, contractor-led peer review.

The EPA identified the ''Potential Approaches for Characterizing the Estimated Benefits of Reducing $PM_{2.5}$ at Low Concentrations'' as a Highly Influential Scientific Assessment, and according to the Agency's *Science and Technology Policy Council, Peer Review Handbook* (Fourth Edition, EPA/100/B–15/001, 2015) (Agency's *Peer Review Handbook*), is required to conduct an external peer review of that report and supplemental files. The reviewers are asked to assess the accuracy, content, and interpretation of findings ensuring that they are factual and scientifically sound. The review shall generate comments from the individual expert reviewers.

A synopsis of the report may be found on the project website: *https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/PM_Uncertainty.* The Agency will periodically update this website to include the full technical report, public comments on the selected peer reviewers and peer reviewer comments on the technical report.

## III. Expertise Sought

Any interested person or organization may nominate him or herself or any qualified individual in the areas of expertise described below. Peer reviewers should have: (1) Published 5 or more manuscripts in one more relevant manuscripts in journals with an impact factor of 5 or greater; and (2) demonstrated expertise in one or more of the following areas:

*A. Air pollution epidemiology.* Author or co-author of multiple studies that examined the relationship between long-term air pollution exposure and mortality or morbidity in a large cohort.

*B. Air pollution biostatistics.* Intricate knowledge of the development of new and innovative statistical methods to examine the relationship between air pollution and human health. This knowledge is reflected in the individual's publication record, and by leading or co-leading the development of statistical models used in epidemiologic studies examining the health effects of either short- or long-term air pollution exposure.

*C. Risk assessment and benefits analysis.* Expertise in the best practices for expressing the probability of population-level adverse outcomes expected to occur due to changes in environmental stressors. This knowledge will have been reflected by the individual having led studies interpreting and applying novel approaches in the epidemiology literature to characterize population risks. Expertise in the best practices for estimating the economic value of uncertain air pollution-related effects, including the risk of premature death. Expertise in characterizing uncertainty in the value of reducing the risk of adverse effects.

*D. Decision sciences and uncertainty analysis.* Expertise in using quantitative techniques to inform decision-making in a public health, public policy or regulatory context. Expertise in both frequentist and Bayesian techniques of uncertainty analysis.

*E. Economics.* Expertise in econometrics, particularly in using these techniques to analyze time series data and panel data. Expertise in running survival models and in performing large-scale quantitative meta-analyses. Expertise in welfare economics.

## IV. Peer-Review Panel Selection Criteria

Selection criteria for individuals nominated to serve as external peer reviewers include the following:

A. Demonstrated expertise through relevant peer reviewed publications.

B. Professional accomplishments and recognition by professional societies.

C. Demonstrated ability to work constructively and effectively in an advisory panel setting.

D. Absence of financial conflicts of interest.

E. No actual conflicts of interest or the appearance of lack of impartiality.

F. Background and experiences that would contribute to the diversity of viewpoints on the panel, *e.g.,* workforce sector; geographical location; social, cultural, and educational backgrounds; and professional affiliations.

G. Willingness to commit adequate time for the thorough review of the draft external peer review document in July–August 2019 (exact date to be determined).

H. Availability to participate in-person in a 1-day peer review meeting in Research Triangle Park, NC in August or September 2019 (exact date will be published in the **Federal Register** at least 30 days prior to the external peer review meeting).

Further information regarding the external peer review meeting will be announced at a later date on the project website here*: https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/PM_Uncertainty.*

**V. Peer-Review Panel Selection Process**

The EPA contractor will follow the Agency's Conflict of Interest Review Process for Contractor-Managed Peer Reviews of EPA Highly Influential Scientific Assessment (HISA) and Influential Scientific Information (ISI) documents (*https://www.epa.gov/sites/production/files/2015-01/documents/epa-process-for-contractor_0.pdf*) and *Peer Review Handbook* (*https://www.epa.gov/osa/peer-review-handbook-4th-edition-2015*) to select the peer-review panel. After candidates are nominated subsequent to this **Federal Register** notice, the EPA contractor will follow-up with nominees and request additional information such as:

A. The disciplinary and specific areas of expertise of the nominee.

B. The nominee's curriculum vitae.

C. A biographical sketch of the nominee indicating current position; educational background; past and current research activities; recent service on other advisory committees, peer review panels, editorial boards, or professional organizations; sources of recent grant and/or contract support; and other comments on the relevance of the nominee's expertise to this peer review topic.

The EPA contractor may also conduct an independent search for candidates to assemble a balanced group representing the expertise needed to fully evaluate EPA's draft report and supplemental materials. The EPA contractor will consider and screen all candidates against the criteria listed in Unit III and the Agency's Conflict of Interest (COI) and appearance of bias guidance with the Agency's *Peer Review Handbook,* available online at: *https://www.epa.gov/osa/peer-review-handbook-4th-edition-2015.* Following the screening process, the EPA contractor will narrow the list of potential reviewers. Prior to selecting the final peer reviewers, a second **Federal Register** notice will be published to solicit comments on the interim list of 7–10 candidates. The public will be requested to provide relevant information or documentation on the nominees that the EPA contractor should consider in evaluating the candidates within 21 days following the announcement of the interim candidates. Once the public comments on the interim list of candidates have been reviewed, the EPA contractor will select the final peer reviewers who, collectively, best provide expertise spanning the multiple areas listed in Unit III and, to the extent feasible, best provide a balance of perspectives. The EPA contractor will ultimately notify candidates of selection or non-selection. Compensation of non-Federal peer reviewers will be provided by the EPA contractor.

Dated: June 7, 2019.

**Panagiotis Tsirigotis,**

*Director, Office of Air Quality Planning and Standards.*

[FR Doc. 2019–12487 Filed 6–12–19; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

**[MB Docket No. 19–156; DA 19–506]**

## Entertainment Media Trust, Dennis J. Watkins, Trustee; Hearing

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document commences a hearing to determine whether Entertainment Media Trust, Dennis J. Watkins, Trustee (EMT or the Trust) has committed violations of the Communications Act of 1934, as amended and/or the rules and regulations of the Federal Communications Commission. The hearing will determine whether the applications for license renewal should be denied and licenses should be cancelled for four AM radio stations: KFTK–AM (formerly WQQX–AM), Facility ID No. 72815, East St. Louis, Illinois, File No. BR–20120709ACP; WQQW–AM, Facility ID No. 90598, Highland, Illinois, File No. BR–20120709AC0; KZQZ–AM, Facility ID No. 72391, St. Louis, Missouri, File No. BR–20120921AAW; and KQQZ–AM Facility ID No. 5281, DeSoto, Missouri, File No. BR–20120921ABA. The hearing will also determine whether the stations' respective assignment of license applications, File Nos. BAL–20160919ADH, BAL–20160919ADI, BAL–20160919ADJ, and BAL–20160919ADK should be dismissed, and applications to construct a new FM translator station W275CS, Highland, Illinois, Facility ID No. 200438, File Nos. BNPFT–20170726AEF and BNPFT–20180314AAO to retransmit one of the stations should be dismissed.

**DATES:** Each party to the proceeding (except for the Chief, Enforcement Bureau), in person or by counsel, shall file with the Commission, by June 25, 2019, a written appearance stating that the party will appear on the date fixed for hearing and present evidence on the issues specified herein.

**ADDRESSES:** Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Irene Bleiweiss, 202–418–2700.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Hearing Designation Order and Notice of Opportunity for Hearing (Order), MB Docket No. 19–156, adopted June 5, 2019, and released June 5, 2019. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW, Washington, DC 20554. The full text is also available online at *http://apps.fcc.gov/ecfs/.* This document is available in alternative formats (computer diskette, large print, audio record, and Braille). Persons with disabilities who need documents in these formats may contact the FCC by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

**Synopsis**

1. In the Order, the Commission commences a hearing proceeding before the Administrative Law Judge to determine whether Entertainment Media Trust, Dennis J. Watkins, Trustee (EMT or the Trust) has committed violations of the Communications Act of 1934, as amended (Act) and/or the rules and regulations (Rules) of the Federal Communications Commission (Commission) and, as a consequence, whether EMT's captioned applications for license renewal should be denied, those station licenses accordingly

cancelled, and applications to construct a new FM translator station to retransmit one of the stations should be dismissed.

2. Between 2006 and 2010, EMT purchased four AM radio stations: KFTK(AM) (formerly WQQX(AM)), WQQW(AM), KZQZ(AM), and KQQZ(AM) (collectively, Stations) in the St. Louis market. EMT filed renewal applications for each of these Stations in 2012. On November 1, 2012, Mark A. Kern (Kern), a local resident and listener of the Stations, filed a petition to deny EMT's renewal applications, in which he asserted that EMT ''is a straw party for Robert Romanik, a convicted felon, who exercises *de facto* control of the Stations.'' A Commission investigation confirmed that Robert S. Romanik (Romanik), who has been convicted of felony offenses (obstruction of justice and bank fraud), established EMT and provided all of EMT's funds for the acquisition of the Stations, but was not listed as a party in any of EMT's Commission applications. The investigation found additional evidence supporting Kern's claim that Romanik exercises *de facto* control over the Stations, including evidence that Romanik identified himself as a radio station owner on various forms disclosing his political contributions, purported to assign EMT's beneficial interest in the Stations to his longtime girlfriend, Katrina M. Sanders, and participated in negotiations involving a Local Programming and Marketing Agreement with Emmis Radio, LLC for KFTK in 2016. In addition, the investigation showed that the document that EMT now identifies as its trust instrument was executed on December 19, 2012 (after Kern's 2012 Petition to Deny and well after EMT acquired the Stations) and does not contain provisions insulating Romanik from attribution of EMT's interests in the Stations under the Commission's ownership attribution policies.

3. The Commission's investigation was impeded by EMT's failure or inability to provide responsive information. The Commission's hearing process provides a more complete set of discovery tools to develop a fuller factual record.

4. Based on the totality of the evidence before the Commission, we find there are substantial and material questions of fact as to whether:

(a) There has been an undisclosed *de facto* transfer of control of the Stations to Romanik and thus whether he is a real party-in-interest to the pending applications;

(b) EMT engaged in misrepresentation and/or lack of candor in its applications and other communications with the Commission; and

(c) the Trust shields Romanik or the Trust's beneficiaries from holding attributable interests in the Stations under the Commission's ownership attribution policies.

5. Accordingly, *it is ordered,* pursuant to sections 309(d), 309(e), and 309(k) of the Act, 47 U.S.C. 309(d), 47 U.S.C. 309(e), and 47 U.S.C. 309(k), that the captioned Renewal Applications, Assignment Applications, and Translator Applications *are designated for hearing* in a consolidated proceeding before an FCC Administrative Law Judge, at a time and place to be specified in a subsequent Order, upon the following issues:

(a) To determine whether Entertainment Media Trust, Dennis J. Watkins, Trustee is (and/or has been, during the most recent license term) exercising affirmative control of Stations KFTK(AM) (formerly WQQX(AM)), WQQW(AM), KZQZ(AM), and KQQZ(AM).

(b) To determine whether there has been a *de facto* transfer of control of Stations KFTK(AM) (formerly WQQX(AM)), WQQW(AM), KZQZ(AM), and KQQZ(AM) to Robert S. Romanik in violation of section 310(d) of the Act, either occurring in the most recent license term or continuing during that license term.

(c) To determine whether Robert S. Romanik is (and/or has been, during the most recent license term) a real-party-in-interest to the captioned applications for Stations KFTK(AM) (formerly WQQX(AM)), WQQW(AM), KZQZ(AM), KQQZ(AM), and W275CS, both before and after Stephen Romanik's death.

(d) To determine whether Entertainment Media Trust, Dennis J. Watkins, Trustee or Dennis J. Watkins engaged in misrepresentation and/or lack of candor in applications and communications with the Commission or otherwise violated 47 CFR 1.17 during the most recent license term with respect to matters involving Stations KFTK(AM) (formerly WQQX(AM)), WQQW(AM), KZQZ(AM), KQQZ(AM), and W275CS.

(e) To determine whether Entertainment Media Trust, Dennis J. Watkins, Trustee, shields the grantor or the beneficiary from the ownership attribution requirements under section 73.3555 of the Commission's rules.

(f) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether the captioned license renewal applications should be granted.

(g) To determine, in light of the foregoing issues, whether the captioned application for consent to assignment of the licenses of Stations KFTK(AM) (formerly WQQX(AM)), WQQW(AM), KZQZ(AM), and KQQZ(AM) should be granted, denied or dismissed.

(h) To determine, in light of the foregoing issues, whether the captioned applications for a permit to construct FM translator Station W275CS should be granted, denied or dismissed.

6. *It is further ordered* that, pursuant to sections 309(d), 309(e) and 309(k) of the Act and section 1.221(c) of the Commission's rules, 47 U.S.C. 309(d), 47 U.S.C. 309(e), U.S.C. 309(k), and 47 CFR 1.221(c), to avail itself of the opportunity to be heard and to present evidence at a hearing in this proceeding, Entertainment Media Trust, Dennis J. Watkins, Trustee, in person or by an attorney, *shall file* with the Commission, within 20 calendar days of the release of the Order, a written appearance stating that it will appear at the hearing and present evidence on the issues specified above.

7. *It is further ordered* that, pursuant to section 1.221(c) of the Commission's rules, 47 CFR 1.221(c), if Entertainment Media Trust, Dennis J. Watkins, Trustee fails to file, within 20 calendar days of the release of the Order, a written appearance, a petition to dismiss without prejudice, or a petition to accept for good cause shown an untimely written appearance, the captioned applications shall be dismissed with prejudice for failure to prosecute.

8. *It is further ordered* that the Chief, Enforcement Bureau, shall be made a party to this proceeding without the need to file a written appearance.

9. *It is further ordered* that Mark A. Kern shall be made a party to this proceeding in his capacity as a petitioner to one or more of the captioned applications.

10. *It is further ordered* that, pursuant to section 309(e) of the Act, 47 U.S.C. 309(e), and section 1.254 of the Commission's rules, 47 CFR 1.254, the burden of proceeding with the introduction of evidence and the burden of proof shall be upon Entertainment Media Trust, Dennis J. Watkins, Trustee as to all the issues at Paragraph 5 above.

11. *It is further ordered* that a copy of each document filed in this proceeding subsequent to the date of adoption of this document *shall be served* on the counsel of record appearing on behalf of the Chief, Enforcement Bureau. Parties may inquire as to the identity of such counsel by calling the Investigations & Hearings Division of the Enforcement Bureau at (202) 418–1420. Such service copy *shall be addressed* to the named counsel of record, Investigations &

Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

12. *It is further ordered* that Entertainment Media Trust, Dennis J. Watkins, Trustee, pursuant to section 311(a)(2) of the Act, 47 U.S.C. 311(a)(2), and section 73.3594 of the Commission's rules, 47 CFR 73.3594, *shall give notice* of the hearing within the time and in the manner prescribed in such Rules, and *shall advise* the Commission of the publication of such notice as required by section 73.3594(g) of the Commission's rules, 47 CFR 73.3594(g).

13. *It is further ordered* that copies of the Hearing Designation Order and Notice of Opportunity for Hearing *shall be sent* via Certified Mail, Return Receipt Requested, and by regular first class mail to the following: Entertainment Media Trust, Dennis J. Watkins, Trustee, 6500 West Main Street, Suite 315, Belleville, IL 62223; Anthony Lepore, Esq., P.O. Box 823662, South Florida, FL 33082–3662; Davina S. Sashkin, Esq., Fletcher, Heald & Hildreth, 1300 North 17th Street, 11th Floor, Arlington, VA 22209; Mark A. Kern, 111 South High Street, Belleville, IL 62220; Richard A. Helmick, Esq., and Howard M. Liberman, Esq., 1800 M Street NW, Suite 800N, Washington, DC 20036.

14. *It is further ordered* that a copy of this document, or a summary thereof, shall be published in the **Federal Register**.

Federal Communications Commission.

**Thomas Horan,**

*Chief of Staff, Media Bureau.*

[FR Doc. 2019–12479 Filed 6–12–19; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier: CMS–10434]**

### 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 August 12, 2019.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

**FOR FURTHER INFORMATION CONTACT:** William N. Parham at (410) 786–4669.

**SUPPLEMENTARY INFORMATION:**

**Contents**

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

**CMS 10434 Medicaid and CHIP Program (MACPro)**

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:* Extension of a currently approved collection; *Title of Information Collection:* Medicaid and CHIP Program (MACPro); *Use:* The MACPro system is being transitioned to become the system of record that will be used by both state and CMS officials to: Improve the state application and federal review processes, improve federal program management of Medicaid programs and CHIP, and standardize Medicaid program data. Specifically, it will be used by state agencies to: Submit and amend Medicaid state plans, CHIP state plans and ADPs (Information System Advanced Planning Documents); submit applications and amendments for state waivers, demonstrations, and benchmark and grant programs; and submit reporting data. Among the collections submitted for approval under MACPro will be relevant collections that are currently approved under our generic umbrella information collection request (CMS–10398; OMB control number 0938–1148), certain collections approved as a regular stand-alone information collections, and upcoming collections. A list of those collections is included in our PRA package. *Form Number:* CMS–10434

(OMB control number: 0938–1188); *Frequency:* Monthly, yearly, quarterly, semi-annually, once, or occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 3,360; *Total Annual Hours:* 96,844. (For policy questions regarding this collection contact Annette Pearson at 410–786–6858).

Dated: June 10, 2019.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2019–12489 Filed 6–12–19; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2019–D–2105]**

### Mouse Embryo Assay for Assisted Reproduction Technology Devices; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Mouse Embryo Assay for Assisted Reproduction Technology Devices.'' This draft guidance document provides recommendations on conducting the Mouse Embryo Assay (MEA) to support premarket submissions and lot release of assisted reproduction technology devices. This draft guidance is not final nor is it in effect at this time.

**DATES:** Submit either electronic or written comments on the draft guidance by August 12, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

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

*Written/Paper Submissions*

Submit written/paper submissions as follows:

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

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

*Instructions:* All submissions received must include the Docket No. FDA–2019–D–2105 for ''Mouse Embryo Assay for Assisted Reproduction Technology Devices.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

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

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Mouse Embryo Assay for Assisted Reproduction Technology Devices'' to the Office of Policy, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

**FOR FURTHER INFORMATION CONTACT:** Yun-shang Piao, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G119, Silver Spring, MD 20993–0002, 301–796–5592.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Assisted Reproduction Technology (ART) devices can directly or indirectly contact gametes and/or embryos during use. ART devices are typically assessed for their embryotoxic potential using the MEA to determine whether they negatively affect gametes and/or embryos. Several classification regulations under 21 CFR part 884 include special controls that require MEA testing or information. MEA may also be used by sponsors to support

premarket submissions for other devices that are intended to contact gametes and/or embryos during their use. However, there are no voluntary consensus standards that describe how to conduct the MEA. This draft guidance provides recommendations for conducting the MEA to support premarket submissions for devices that are intended to contact gametes and/or embryos and to comply with the special controls for those devices classified under 21 CFR 884 that require MEA testing or information.

**II. Significance of Guidance**

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Mouse Embryo Assay for Assisted Reproduction Technology Devices.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

**III. Electronic Access**

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Mouse Embryo Assay for Assisted Reproduction Technology Devices'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 16015 to identify the guidance you are requesting.

**IV. Paperwork Reduction Act of 1995**

This draft guidance refers to previously approved collections of information. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in the following FDA regulations have been approved by OMB as listed in the following table:

| 21 CFR Part | Topic | OMB Control No. |
|---|---|---|
| 807, subpart E | Premarket Notification | 0910–0120 |
| 800, 801, and 809 | Medical Device Labeling Regulations | 0910–0485 |

Dated: June 6, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019–12430 Filed 6–12–19; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–0190]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Requirements Under the Comprehensive Smokeless Tobacco Health Education Act of 1986, as Amended by the Family Smoking Prevention and Tobacco Control Act

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection ''Requirements Under the Comprehensive Smokeless Tobacco Health Education Act of 1986, as Amended by the Family Smoking Prevention and Tobacco Control Act.''

**DATES:** Submit either electronic or written comments on the collection of information by August 12, 2019.

**ADDRESSES:** You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 12, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 12, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–2013–N–0190 for ''Requirements Under

the Comprehensive Smokeless Tobacco Health Education Act of 1986, as Amended by the Family Smoking Prevention and Tobacco Control Act.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** 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:** 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. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Requirements Under the Comprehensive Smokeless Tobacco Health Education Act of 1986, as Amended by the Family Smoking Prevention and Tobacco Control Act**

*OMB Control Number 0910–0671—Extension*

The Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) was enacted on June 22, 2009, amending the Federal Food, Drug, and Cosmetic Act and providing FDA with the authority to regulate tobacco products (Pub. L. 111–31). Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (the Smokeless Tobacco Act) (15 U.S.C. 4402), as amended by section 204 of the Tobacco Control Act, requires, among other things, that all smokeless tobacco product packages and advertisements bear one of four required warning statements. Section 3(b)(3)(A) of the Smokeless Tobacco Act requires that the warnings be displayed on packaging and advertising for each brand of smokeless tobacco ''in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer'' to, and approved by, FDA.

This information collection, the submission to FDA of warning plans for smokeless tobacco products, is statutorily mandated. The warning plans will be reviewed by FDA, as required by the Smokeless Tobacco Act, to determine whether the companies' plans for the equal distribution and display of warning statements on packaging and the quarterly rotation of warning statements in advertising for each brand of smokeless tobacco products comply with section 3 of the Smokeless Tobacco Act, as amended. Additionally, FDA considers a submission to be a supplement if the submitter is seeking approval of a change to an FDA-approved warning plan.

Based on FDA's experience over the past several years, FDA believes the estimate of 60 hours to complete an initial rotational plan continues to be accurate. If a supplement to an approved plan is submitted, FDA estimates it will take half the time per response (30 hours).

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

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

| Activity | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours | Total capital costs |
|---|---|---|---|---|---|---|
| Submission of Initial rotational plans for health warning statements | 4 | 1 | 4 | 60 | 240 | $48 |

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN—Continued

| Activity | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours | Total capital costs |
|---|---|---|---|---|---|---|
| Supplement to approved plan | 10 | 1 | 10 | 30 | 300 | 120 |
| Total | | | | | 540 | 168 |

FDA estimates a total of 4 respondents will submit a new original warning plan and take 60 hours to complete a rotational warning plan for a total of 240 burden hours. In addition, 10 respondents will submit a supplement to an approved warning plan at 30 hours per response for a total of 300 hours. The total burden for this collection is estimated to be 540 hours.

Capital costs are based on 14 respondents mailing in their submission at a postage rate of $12 for a 5-pound parcel (business parcel post mail delivered from the furthest delivery zone). Therefore, FDA estimates that the total postage cost for mailing the rotational warning plans FDA to be $168.

We have adjusted our burden estimate, which has resulted in a decrease of 5,460 hours and 86 respondents to the currently approved burden. We received a total number of 44 original smokeless warning plans, and a total of 17 supplements. After receiving the initial influx of original warnings plans, FDA does not expect to receive as many original warning plans annually. We expect that a few supplements will continue to be received as new products are marketed or as warning plans are revised. We anticipate a total number of 10 supplements submitted annually and 4 original smokeless warning plans.

Dated: June 7, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019–12472 Filed 6–12–19; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Assistant Secretary for Health

### Meeting of the Pain Management Best Practices Inter-Agency Task Force; Correction

**AGENCY:** Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

**ACTION:** Notice; correction.

**SUMMARY:** The Office of the Assistant Secretary for Health published a document in the **Federal Register** of June 3, 2019, announcing the Pain Management Best Practices Inter-Agency Task Force's virtual public meeting. This document is announcing a change in the meeting date.

**FOR FURTHER INFORMATION CONTACT:** Ms. Alicia Richmond Scott, 240–453–2816; *paintaskforce@hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

**Correction**

In the **Federal Register** of June 3, 2019, in FR Doc. 2019–11473, on page 25548, in the first column, correct the **DATES** caption to read:

**DATES:** The Task Force meeting will be held on Wednesday, June 26, 2019 from 5:00 p.m. to 6:30 p.m. Eastern Time (ET). The agenda will be posted on the Task Force website at *https://www.hhs.gov/ash/advisory-committees/pain/index.html.*

Dated: June 6, 2019.

**Vanila M. Singh,**

*Chief Medical Officer, Chair, Pain Management Best Practices Inter-Agency Task Force, Office of the Assistant Secretary for Health.*

[FR Doc. 2019–12482 Filed 6–12–19; 8:45 am]

**BILLING CODE 4150–28–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR17–094: Maximizing Investigators' Research Award (R35).

*Date:* July 9, 2019.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda North Marriott Hotel Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.

*Contact Person:* Baishali Maskeri, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2022, Bethesda, MD 20892, 301–827–2864, *maskerib@mail.nih.gov*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; RFA Panel: Healthy Brain and Child Development Study (Healthy BCD).

*Date:* July 11, 2019.

*Time:* 8:30 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Residence Inn Capital View, 2850 South Potomac Avenue, Arlington, VA 22202

*Contact Person:* Heidi B. Friedman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892, 301–379–5632, *hfriedman@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR Panel: Chronic Disease and the Reduction of Health Disparities.

*Date:* July 12, 2019.

*Time:* 10:30 a.m. to 3:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Karen Nieves Lugo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20892, *karen.nieveslugo@nih.gov.*

*Name of Committee:* AIDS and Related Research Integrated Review Group; Population and Public Health Approaches to HIV/AIDS Study Section

*Date:* July 15–16, 2019.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications,

*Place:* Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102

*Contact Person:* Jose H. Guerrier, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Small Business: Neuroscience Assay, Diagnostics and Animal Model Development.

*Date:* July 15–16, 2019.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Sir Francis Drake Hotel, 450 Powell Street at Kimpton Hotel, San Francisco, CA 94102.

*Contact Person:* Susan Gillmor, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 240–762–3076, *susan.gillmor@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR Panel: Human-Animal Interaction (HAI) Research.

*Date:* July 15, 2019.

*Time:* 11:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, RKL II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Fellowships: Cell Biology, Developmental Biology, and Bioengineering.

*Date:* July 16–17, 2019.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Doubletree Hotel Bethesda (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Alexander Gubin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7812, Bethesda, MD 20892, 301–435–2902, *gubina@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Topics in Bacterial Pathogenesis.

*Date:* July 16, 2019.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Drury Plaza Hotel by the Arch, 2nd and 4th Street, St. Louis, MO 63102.

*Contact Person:* Richard G. Kostriken, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 240–519–7808, *kostrikr@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; RFA–AI–18–054 U.S.-Brazil Collaborative Biomedical Research Program.

*Date:* July 16, 2019.

*Time:* 9:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Andrea Keane-Myers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, Bethesda, MD 20892, 301–435–1221, *andrea.keane-myers@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Lung Injury and Fibrosis.

*Date:* July 16–17, 2019.

*Time:* 9:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, RKL II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* George M. Barnas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4220, MSC 7818, Bethesda, MD 20892, 301–435–0696, *barnasg@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Topics in Drug Discovery and Clinical Field Studies.

*Date:* July 16, 2019.

*Time:* 9:30 a.m. to 5:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

*Contact Person:* Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, 301–996–5819, *zhengli@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR 16–121: Early-Stage Preclinical Validation of Therapeutic Leads for Diseases of Interest to the NIDDK.

*Date:* July 16, 2019.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Antonello Pileggi, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, Bethesda, MD 20892–7892, (301) 402–6297, *pileggia@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Virology.

*Date:* July 16, 2019.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Marci Scidmore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301–435–1149, *marci.scidmore@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR 16–121: Early-Stage Preclinical Validation of Therapeutic Leads for Diseases of Interest to the NIDDK.

*Date:* July 16, 2019.

*Time:* 5:00 p.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Elaine Sierra-Rivera, Ph.D., Scientific Review Officer, EMNR IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182 MSC 7892, Bethesda, MD 20892, 301 435–2514, *riverase@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 7, 2019.

**Sylvia L. Neal,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019–12474 Filed 6–12–19; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

**[1651–0032]**

### Agency Information Collection Activities: Importers of Merchandise Subject to Actual Use Provisions

**AGENCY:** U.S. Customs and Border Protection (CBP), Department of Homeland Security.

**ACTION:** 30-Day notice and request for comments; extension of an existing collection of information.

**SUMMARY:** The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than July 15, 2019 to be assured of consideration.

**ADDRESSES:** Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via

electronic mail to *dhsdeskofficer@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number (202) 325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/*.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 6155) on February 26, 2019, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

**Overview of This Information Collection**

*Title:* Importers of Merchandise Subject to Actual Use Provisions.

*OMB Number:* 1651–0032.

*Current Actions:* CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

*Type of Review:* Extension (without change).

*Affected Public:* Businesses.

*Abstract:* In accordance with 19 CFR 10.137, importers of goods subject to the actual use provisions of the Harmonized Tariff Schedule of the United States (HTSUS) are required to maintain detailed records to establish that these goods were actually used as contemplated by the law. The importer shall maintain records of use or disposition for a period of three years from the date of liquidation of the entry, and the records shall be available at all times for examination and inspection by CBP.

*Estimated Number of Respondents:* 12,000.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Number of Total Annual Responses:* 12,000.

*Estimated Time per Response:* 65 minutes.

*Estimated Total Annual Burden Hours:* 13,000.

Dated: June 7, 2019.

**Seth D. Renkema,**

*Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.*

[FR Doc. 2019–12426 Filed 6–12–19; 8:45 am]

**BILLING CODE 9111–14–P**

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## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

**[1651–0054]**

### Agency Information Collection Activities: Exportation of Used Self-Propelled Vehicles

**AGENCY:** U.S. Customs and Border Protection (CBP), Department of Homeland Security.

**ACTION:** 30-Day notice and request for comments; extension of an existing collection of information.

**SUMMARY:** The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted no later than July 15, 2019 to be assured of consideration.

**ADDRESSES:** Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number (202) 325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 6017) on February 25, 2019, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological

collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

**Overview of This Information Collection**

*Title:* Exportation of Used Self-Propelled Vehicles.

*OMB Number:* 1651–0054.

*Action:* CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

*Type of Review:* Extension (without change).

*Affected Public:* Individuals and Businesses.

*Abstract:* CBP regulations require an individual attempting to export a used self-propelled vehicle to furnish to CBP, at the port of export, the vehicle and documentation describing the vehicle, which includes the Vehicle Identification Number (VIN), or if the vehicle does not have a VIN, the product identification number. Exportation of a vehicle will be permitted only upon compliance with these requirements. This requirement does not apply to vehicles that were entered into the United States under an in-bond procedure, a carnet, or temporary importation bond. The required documentation includes, but is not limited to, a Certificate of Title or a Salvage Title, the VIN, a Manufacture's Statement of Origin, etc. CBP will accept originals or certified copies of Certificate of Title. The purpose of this information collection is to help ensure that stolen vehicles or vehicles associated with other criminal activity are not exported.

Collection of this information is authorized by 19 U.S.C.1627a, which provides CBP with authority to impose export reporting requirements on all used self-propelled vehicles, and by Title IV, Section 401 of the Anti-Car Theft Act of 1992, 19 U.S.C. 1646c, which requires all persons exporting a used self-propelled vehicle to provide to CBP, at least 72 hours prior to export, the VIN and proof of ownership of each automobile. This information collection is provided for by 19 CFR part 192. Further guidance regarding these requirements is provided at: *https://www.cbp.gov/trade/basic-import-export.*

*Estimated Number of Respondents:* 750,000.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Number of Total Annual Responses:* 750,000.

*Estimated Time per Response:* 10 minutes.

*Estimated Total Annual Burden Hours:* 125,000.

Dated: June 7, 2019.

**Seth D. Renkema,**

*Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.*

[FR Doc. 2019–12428 Filed 6–12–19; 8:45 am]

BILLING CODE 9111–14–P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

**[1651–0052]**

### Agency Information Collection Activities: User Fees

**AGENCY:** U.S. Customs and Border Protection (CBP), Department of Homeland Security.

**ACTION:** 30-Day notice and request for comments; extension of an existing collection of information.

**SUMMARY:** The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than July 15, 2019) to be assured of consideration.

**ADDRESSES:** Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number (202) 325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 8734) on March 11, 2019, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

**Overview of This Information Collection**

*Title:* User Fees.

*OMB Number:* 1651–0052.

*Form Number:* CBP Forms 339A, 339C and 339V.

*Current Actions:* This submission is being made to extend the expiration date with no change to the burden hours or to the information collected.

*Type of Review:* Extension (without change).

*Affected Public:* Carriers.

*Abstract:* The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA–PL 99–272; 19 U.S.C. 58c) authorizes the collection of user fees by Customs and Border Protection (CBP). The collection of these fees requires submission of information from the party remitting the fees to CBP. This information is submitted on three forms

including the CBP Form 339A for aircraft, CBP Form 339C for commercial vehicles, and CBP Form 339V for vessels. These forms can be found at: *https://www.cbp.gov/newsroom/publications/forms?title=339.*

The information on these forms may also be filed electronically at: *https://dtops.cbp.dhs.gov/.* This collection of information is provided for by 19 CFR 24.22.

In addition, CBP requires express consignment carrier facilities (ECCFs) to file lists of carriers or operators using the facility in accordance with 19 CFR 128.11. In cases of overpayments, carriers using the ECCFs may send a request to CBP for a refund in accordance with 19 CFR 24.23(b). This request must specify the grounds for the refund. ECCFs are also required to file a quarterly report in accordance with 19 CFR 24.23(b)(4).

*CBP Form 339A—Aircraft*

*Estimated Number of Respondents:* 15,000.
*Estimated Number of Annual Responses per Respondent:* 1.
*Estimated Number of Annual Responses:* 15,000.
*Estimated Time per Response:* 16 minutes.
*Estimated Total Annual Burden Hours:* 4,000.

*CBP Form 339C—Vehicles*

*Estimated Number of Respondents:* 90,000.
*Estimated Number of Annual Responses per Respondent:* 1.
*Estimated Number of Annual Responses:* 90,000.
*Estimated Time per Response:* 20 minutes.
*Estimated Total Annual Burden Hours:* 29,997.

*CBP Form 339V—Vessels*

*Estimated Number of Respondents:* 10,000.
*Estimated Number of Annual Responses per Respondent:* 1.
*Estimated Number of Annual Responses:* 10,000.
*Estimated Time per Response:* 16 minutes.
*Estimated Total Annual Burden Hours:* 2,667.

*ECCF Quarterly Report*

*Estimated Number of Respondents:* 18.
*Estimated Number of Annual Responses per Respondent:* 4.
*Estimated Number of Annual Responses:* 72.
*Estimated Time per Response:* 2 hours.
*Estimated Total Annual Burden Hours:* 144.

*ECCF Application and List of Couriers*

*Estimated Number of Respondents:* 3.
*Estimated Number of Annual Responses per Respondent:* 4.
*Estimated Number of Annual Responses:* 12.
*Estimated Time per Response:* 30 minutes.
*Estimated Total Annual Burden Hours:* 6.

Dated: June 7, 2019.

**Seth D. Renkema,**

*Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.*

[FR Doc. 2019–12429 Filed 6–12–19; 8:45 am]

**BILLING CODE 9111–14–P**

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## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

**[1651–0082]**

### Agency Information Collection Activities: African Growth and Opportunity Act (AGOA) Textile Certificate of Origin

**AGENCY:** U.S. Customs and Border Protection (CBP), Department of Homeland Security.

**ACTION:** 30-Day notice and request for comments; extension of an existing collection of information.

**SUMMARY:** The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than July 15, 2019) to be assured of consideration.

**ADDRESSES:** Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number (202) 325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 5102) on February 20, 2019, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

**Overview of This Information Collection**

*Title:* African Growth and Opportunity Act (AGOA) Textile Certificate of Origin.

*OMB Number:* 1651–0082.

*Form Number:* None.

*Action:* CBP proposes to extend the expiration date of this information collection without change to the estimated burden hours or the information collected.

*Type of Review:* Extension (without change).

*Affected Public:* Businesses.

*Abstract:* The African Growth and Opportunity Act (AGOA) was adopted by the United States with the enactment of the Trade and Development Act of 2000 (Pub. L. 106–200). The objectives of AGOA are (1) to provide for extension of duty-free treatment under the Generalized System of Preferences (GSP) to import sensitive articles normally excluded from GSP duty treatment, and (2) to provide for the entry of specific textile and apparel articles free of duty and free of any quantitative limits from the countries of sub-Saharan Africa.

For preferential treatment under AGOA, the exporter is required to prepare a certificate of origin and provide it to the importer. The certificate of origin includes information such as contact information for the importer, exporter and producer; the basis for which preferential treatment is claimed; and a description of the imported merchandise. The importers are required to have the certificate in their possession at the time of the claim, and to provide it to CBP upon request. The collection of this information is provided for in 19 CFR 10.214, 10.215, and 10.216.

Instructions for complying with this regulation are posted on *CBP.gov* website at: *https://www.cbp.gov/sites/default/files/assets/documents/2016-Apr/icp065_3.pdf.*

*Estimated Number of Respondents:* 12.

*Estimated Number of Annual Responses per Respondent:* 2.

*Estimated Number of Total Annual Responses:* 24.

*Estimated Time per Response:* 20 minutes.

*Estimated Total Annual Burden Hours:* 7.9992.

Dated: June 7, 2019.

**Seth D. Renkema,**

*Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.*

[FR Doc. 2019–12427 Filed 6–12–19; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R7–MB–2019–N043; FXMB12610700000–190–FF07M01000; OMB Control Number 1018–0124]**

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Alaska Subsistence Bird Harvest Survey

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

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an information collection with revisions.

**DATES:** Interested persons are invited to submit comments on or before July 15, 2019.

**ADDRESSES:** Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: AMAD–ARM–PPM, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–0124 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

On February 8, 2019, we published a **Federal Register** notice soliciting comments on this collection of information for 60 days, ending on April 9, 2019 (84 FR 2902). We received no comments in response to the **Federal Register** notice.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

*Abstract:* The Migratory Bird Treaty Act of 1918 (16 U.S.C. 703–712) and the Fish and Wildlife Act of 1956 (16 U.S.C. 742d) designate the Department of the Interior as the key agency responsible for managing migratory bird populations that frequent the United States and for setting harvest regulations that allow for the conservation of those populations. These responsibilities include gathering data on various aspects of migratory bird harvest. We use harvest data to review regulation proposals and to issue harvest regulations.

The Migratory Bird Treaty Act Protocol Amendment (1995) (Amendment) provides for the customary and traditional use of migratory birds and their eggs for subsistence use by indigenous inhabitants of Alaska. The Amendment states that its intent is not to cause significant increases in the take of species of migratory birds relative to their continental population sizes. A submittal letter from the Department of State to the White House (May 20, 1996) accompanied the Amendment and specified the need for harvest monitoring. The submittal letter stated that the Service, the Alaska Department of Fish and Game (ADF&G), and Alaska Native organizations would collect harvest information cooperatively

within the subsistence eligible areas. Harvest data help to ensure that customary and traditional subsistence uses of migratory birds and their eggs by indigenous inhabitants of Alaska do not significantly increase the take of species of migratory birds relative to their continental population sizes.

We monitored subsistence harvest of migratory birds using household surveys in the Yukon-Kuskokwim Delta region in 1985–2002 and in the Bristol Bay region in 1995–2002. Since 2004, the Alaska Migratory Bird Co-Management Council—Harvest Assessment Program (AMBCC–HAP) conducts regular surveys across Alaska to document the subsistence harvest of birds and their eggs. The statewide harvest assessment program helps to describe geographical and seasonal harvest patterns, and to track trends in harvest levels. The program relies on collaboration among the Service, the ADF&G, and diverse Alaska Native organizations.

We collect harvest data for about 60 bird species/categories and their eggs (ducks, geese, swans, cranes, seabirds, shorebirds, grebes and loons, and grouse and ptarmigan) in the subsistence eligible areas of Alaska. The survey covers spring, summer, and fall harvest in most regions.

In collaboration with Alaska Native organizations, we hire local resident surveyors to collect the harvest data. The surveyors list all households in the communities, randomly select households to be surveyed, and interview households that have agreed to participate. To ensure anonymity of harvest information, we identify each household by a numeric code. Since the beginning of the survey in 2004, twice we have re-evaluated and revised survey methods to streamline procedures and minimize respondent burden. We use the following forms for household participation:

- FWS Form 3–2380 (Tracking Sheet and Household Consent). The surveyor visits each household selected to participate in the survey to obtain household consent to participate. The surveyor uses this form to record household consent.
- FWS Forms 3–2381–1, 3–2381–2, 3–2381–3, 3–2381–4, and 3–2381–5 (Harvest Report). The Harvest Report has drawings of bird species most commonly available for harvest in different regions of Alaska, with fields for recording numbers of birds and eggs taken. The forms have up to four sheets, one for each surveyed season. The Western and Interior forms (3–2381–1 and 3–2381–3) have three sheets (spring, summer, and fall). We now use the Southern Coastal form 3–2381–2 only in the Bristol Bay region, and thus we renamed the form the Bristol Bay form. The North Slope form (3–2381–4) has two sheets (spring and summer). The new Cordova form (3–2381–5) has only one sheet (spring). Each seasonal sheet has black and white drawings of bird species, next to which are fields to record the number of birds and eggs harvested. Because bird species available for harvest vary in different regions of Alaska, there are five versions of the harvest report form, each with a different set of species. This helps to prevent users from erroneously recording bird species as harvested in areas where they do not usually occur.

Following the most recent re-evaluation of survey methods, the sampling design was revised to include only 5 of 12 management regions as an index to the statewide harvest, these 5 regions representing about 90 percent of the statewide subsistence bird harvest. We modified the survey to make the effort compatible with available funding. We also adjusted the number of communities and households to be surveyed each year based on statistical methods to maximize accuracy of harvest estimates given the survey funding. We also reduced the number of household visits from seasonal (three times per year) to annual (once a year). These modifications much reduced the estimated survey burden.

To fulfill priority information needs, we added the following question to the survey: ''In the last 12 months, how many permanent members of this household tried to harvest: Birds (____) and eggs (____).'' A similar question is often included in harvest surveys conducted in Alaska for resources such as fish, marine mammals, and terrestrial mammals. We need such information to estimate and document participation in harvesting activities and to answer a basic and recurrent question in harvest management: ''How many people use this resource.'' Adding this simple question does not change the average time needed to complete the survey.

*Title of Collection:* Alaska Migratory Bird Subsistence Harvest Household Survey.

*OMB Control Number:* 1018–0124.

*Form Number:* FWS Forms 3–2380, 3–2381–1, 3–2381–2, 3–2381–3, 3–2381–4, and 3–2381–5.

*Type of Review:* Revision of a currently approved collection.

*Respondents/Affected Public:* Households within subsistence eligible areas of Alaska.

*Respondent's Obligation:* Required to Obtain or Retain a Benefit.

*Frequency of Collection:* Annually.

*Total Estimated Annual Nonhour Burden Cost:* None.

| Activity/respondents | Average number of annual respondents | Average number of submissions each | Average number of annual responses | Completion time per response (minutes) | Total annual burden hours* |
|---|---|---|---|---|---|
| *Tracking Sheet and Household Consent (FWS Form 3–2380):* | | | | | |
| Individual Households | 723 | 1 | 723 | 5 | 60 |
| *Migratory Bird Subsistence Harvest Household Survey (FWS Forms 3–2381–1, 3–2381–2, 3–2381–3, 3–2381–4, 3–2381–5)* | | | | | |
| Individual Households | 645 | 3 | 1,935 | 5 | 161 |
| Totals | 1,368 | ..... | 2,658 | ..... | 221 |

* Rounded.

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: June 9, 2019.

**Madonna Baucum,**

*Information Collection Clearance Officer, U.S. Fish and Wildlife Service.*

[FR Doc. 2019–12460 Filed 6–12–19; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

**[199D1114PT DS62100000 DPTA00000.000000; OMB Control Number 1093–0005]**

### Agency Information Collection Activities; Payments in Lieu of Taxes (PILT) Act, Statement of Federal Lands Payments

**AGENCY:** Office of the Secretary, Office of Budget.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Office of the Secretary, Office of Budget is proposing to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before July 15, 2019.

**ADDRESSES:** Send your comments on this information collection request (ICR) by mail to the U.S. Department of the Interior, Office of the Secretary, Office of Budget, Attn: Dionna Kiernan, 1849 C Street NW, MS 4106 MIB, Washington, DC 20240 or by email to *doi_pilt@ios.doi.gov.* Please reference OMB Control Number 1093–0005 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** Dionna Kiernan by email at *doi_pilt@ios.doi.gov,* or by telephone at 202–513–7783.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on February 13, 2019 (84 FR 3814 Page 3814–3815), by the Office of the Secretary, Office of Budget, soliciting comments from the public and other interested parties. No public comments were received.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Office of Budget; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Office of Budget enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Office of Budget 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 the Office of Management and Budget (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:* ''Payments in Lieu of Taxes'' (PILT) are Federal payments to local governments that help offset losses in property taxes due to non-taxable Federal lands within their boundaries. The original law is Public Law 94–565, dated October 20, 1976. This law was rewritten and amended by Public Law 97–258 on September 13, 1982 and codified at Chapter 69, Title 31 of the United States Code. The law recognizes the financial impact of the inability of local governments to collect property taxes on Federally-owned land.

The PILT Act requires the Governor of each State to furnish the Department of the Interior with a listing of payments disbursed to local governments by the States on behalf of the Federal Government under 12 statutes described in Section 6903 of 31 U.S.C. The Department of the Interior uses the amounts reported by States to reduce PILT payments to units of general local governments from that which they might otherwise receive. If such listings were not furnished by the Governor of each affected State, the Department would not be able to compute the PILT payments to units of general local government within the States in question.

In fiscal year 2004, administrative authority for the PILT program was transferred from the Bureau of Land Management to the Office of the Secretary of the Department of the Interior. Applicable DOI regulations pertaining to the PILT program to be administered by the Office of the Secretary were published as a final rule in the **Federal Register** on December 7, 2004 (69 FR 70557). The Office of the Secretary, Office of Budget, is now planning to extend the information collection approval authority in order to enable the Department of the Interior to continue to comply with the PILT Act.

*Title of Collection:* Payments in Lieu of Taxes (PILT) Act, Statement of Federal Lands Payments.

*OMB Control Number:* 1093–0005.

*Form Number:* None.

*Type of Review:* Extension of a currently approved collection.

*Respondents/Affected Public:* State governments.

*Total Estimated Number of Annual Respondents:* 49.

*Total Estimated Number of Annual Responses:* 49.

*Estimated Completion Time per Response:* 40 hours.

*Total Estimated Number of Annual Burden Hours:* 1,960 hours.

*Respondent's Obligation:* Required to Obtain or Retain a Benefit.

*Frequency of Collection:* Annually.

*Total Estimated Annual Nonhour Burden Cost:* None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Scott J. Cameron,**

*Principal Deputy Assistant Secretary, Policy, Management and Budget.*

[FR Doc. 2019–12514 Filed 6–12–19; 8:45 am]

**BILLING CODE 4334–63–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–NPS0028045; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: Department of Anthropology, Southern Methodist University, Dallas, TX

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Department of Anthropology, Southern Methodist University has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Department of Anthropology, Southern Methodist University. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Department of Anthropology, Southern Methodist University at the address in this notice by July 15, 2019.

**ADDRESSES:** B. Sunday Eiselt, Department of Anthropology, Southern Methodist University, 3225 Daniel Avenue, Heroy Hall #450, Dallas, TX 75205, telephone (214) 768–2915, email *seiselt@smu.edu.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Department of Anthropology, Southern Methodist University, Dallas, TX. The human remains were removed from the Upper Tucker Site (X41MU17/41MU17), in Montague County, TX.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

#### Consultation

A detailed assessment of the human remains was made by the Department of Anthropology, Southern Methodist University professional staff in consultation with representatives of the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

#### History and Description of the Remains

In 1965, human remains representing, at minimum, one individual were removed from the Upper Tucker Site, in Montague County, TX, as part of the Wichita Project excavation. Although no burials or human remains were reported for this site in any of the associated documentation, including the official published report, one human tooth is attributed to this site No known individuals were identified. No associated funerary objects are present.

The Upper Tucker Site is dated to the late 18th century. Cultural affiliation is with the Wichita and Affiliated Tribes.

#### Determinations Made by the Department of Anthropology, Southern Methodist University

Officials of the Department of Anthropology, Southern Methodist University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

#### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to B. Sunday Eiselt, Department of Anthropology, Southern Methodist University, 3225 Daniel Avenue, Heroy Hall #450, Dallas, TX 75205, telephone (214) 768–2915, email *seiselt@smu.edu,* by July 15, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma may proceed.

The Department of Anthropology, Southern Methodist University is responsible for notifying the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma that this notice has been published.

Dated: May 28, 2019.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2019–12466 Filed 6–12–19; 8:45 am]

**BILLING CODE 4312–52–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–NPS0028042; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: Department of Anthropology, Southern Methodist University, Dallas, TX

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Department of Anthropology, Southern Methodist University has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Department of Anthropology, Southern Methodist University. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Department of Anthropology, Southern Methodist University at the address in this notice by July 15, 2019.

**ADDRESSES:** B. Sunday Eiselt, Department of Anthropology, Southern Methodist University, 3225 Daniel Avenue, Heroy Hall #450, Dallas, TX 75205, telephone (214) 768–2915, email *seiselt@smu.edu.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Department of Anthropology, Southern Methodist University, Dallas, TX. The human remains and associated funerary objects were removed from an unnamed site (X41CO3/41CO153) and the Chicken House Site (X41CO6/41CO156) in Cooke County, TX.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects The National Park Service is not responsible for the determinations in this notice.

**Consultation**

A detailed assessment of the human remains was made by the Department of Anthropology, Southern Methodist University professional staff in consultation with representatives of the Caddo Nation of Oklahoma and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

**History and Description of the Remains**

During 1965 and 1966, human remains representing, at minimum, three individuals were removed from the two sites in Cooke County, TX. Burial 1 is from the Chicken House Site (X41CO6/41CO156). The one individual, a female 18–25 years old, was found on the floor of a cache pit. She had been placed in a semi-flexed positon, and lay on her back, facing the northeast. The hips and knees were flexed, and the legs turned toward the left. The arms were placed down at the side, and were bent at the elbows, with ulnae and radii parallel to the humeri, and the hands next to the shoulders. The bones indicate signs of disease. The skull, left wrist, and left hand were missing at the time of excavation. No known individuals were identified. Although artifacts were found in the cache pit, there were no funerary objects associated with this burial.

Two burials were recovered from unnamed site X41CO3 during a survey and soil profiling. The first burial was located on the surface, and consists of two skull fragments and one charred unidentifiable bone fragment. The second burial was also located on the surface, and consists of a single human tooth and one unidentifiable bone fragment. No known individuals were identified. No associated funerary objects are present for either of these two burials.

Both sites are dated from A.D. 850 to 1000, and fit the Plains Woodland Pattern, but they also begin to approach the Plains Village Pattern. Culturally, the people who occupied the sites were Caddoan.

**Determinations Made by the Department of Anthropology, Southern Methodist University**

Officials of the Department of Anthropology, Southern Methodist University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Caddo Nation of Oklahoma.

**Additional Requestors and Disposition**

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to B. Sunday Eiselt, Department of Anthropology, Southern Methodist University, 3225 Daniel Avenue, Heroy Hall #450, Dallas, TX 75205, telephone (214) 768–2915, email *seiselt@smu.edu,* by July 15, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Caddo Nation of Oklahoma may proceed.

The Department of Anthropology, Southern Methodist University is responsible for notifying the Caddo Nation of Oklahoma and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma that this notice has been published.

Dated: May 28, 2019.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2019–12469 Filed 6–12–19; 8:45 am]

BILLING CODE 4312–52–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–NPS0027604; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: The State Center Community College District—Fresno City College, Fresno, CA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The State Center Community College District—Fresno City College has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the State Center Community College District—Fresno City College. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the State Center Community College District—Fresno City College at the address in this notice by July 15, 2019.

**ADDRESSES:** Mary Beth Miller, Interim Dean of Social Sciences, in care of Jill Minar, Ph.D., Fresno City College of The State Center Community College District, 1101 East University Avenue, Fresno, CA 93741, telephone (559) 442–8210, email *jill.minar@fresnocitycollege.edu.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the State Center Community College District—Fresno City College, Fresno,

CA. The human remains and associated funerary objects were removed from CA–FRE–571 and CA–FRE–706, Fresno County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

**Consultation**

A detailed assessment of the human remains was made by the State Center Community College District—Fresno City College professional staff in consultation with representatives of the Big Sandy Rancheria of Western Mono Indians of California (previously listed as the Big Sandy Rancheria of Mono Indians of California); Buena Vista Rancheria of Me-Wuk Indians of California; Cold Springs Rancheria of Mono Indians of California; Middletown Rancheria of Pomo Indians of California; Northfork Rancheria of Mono Indians of California; Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; Table Mountain Rancheria (previously listed as the Table Mountain Rancheria of California); Tejon Indian Tribe; Tule River Indian Tribe of the Tule River Reservation, California; and the Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California.

The California Valley Miwok Tribe, California; Chicken Ranch Rancheria of Me-Wuk Indians of California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Ione Band of Miwok Indians of California; Jackson Band of Miwuk Indians (previously listed as the Jackson Rancheria of Me-Wuk Indians of California); Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Reno-Sparks Indian Colony, Nevada; Walker River Paiute Tribe of the Walker River Reservation, Nevada; and the Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada were invited to consult, but did not participate.

Two non-federally recognized groups, the Dunlap Band of Mono Indians and the Traditional Choinumni Tribe, participated in consultation. One non-federally recognized group, the Wukchumni Tribe, was invited to consult, but did not participate.

Hereafter, all the Indian Tribes and non-federally recognized Indian groups listed in this section are referred to as ''The Consulted and Notified Tribes and Groups.''

**History and Description of the Remains**

In 1977, human remains representing, at minimum, one individual were removed from CA–FRE–571 in Fresno County, CA. The site was excavated by Don Wren as part of the Pacific Gas and Electric Helms Project. Funded by a 2016 NAGPRA Consultation/Documentation grant awarded to the State Center Community College District, in January 2017, an osteological examination of the faunal collections was conducted to determine if human remains were present. That examination resulted in the identification of the human remains described in this inventory. The fragmentary human remains belong to one sub-adult of indeterminate sex. No known individuals were identified. No associated funerary objects are present.

In 1979, 1983, and 1984, human remains representing, at minimum, five individuals were removed from CA–FRE–706 in Fresno County, CA. This site was excavated by Fresno City College instructor Don Wren and his students for the Milne's Project, which is located on private property. Funded by a 2016 NAGPRA Consultation/Documentation grant awarded to the State Center Community College District, in January 2017, an osteological examination of the faunal collections was conducted to determine if human remains were present. That examination resulted in the identification of the human remains described in this inventory. The fragmentary human remains belong to one adult female, one adult of indeterminate sex, and three sub-adults of indeterminate sex. No known individuals were identified. The 452 associated funerary objects are one bone bead, one lot of bone bead fragments, 180 glass trade beads, one lot of glass trade bead fragments, 171 shell beads, one lot of shell bead fragments, 90 steatite beads, one lot of steatite bead fragments, one steatite pendant fragment, one abalone shell pendant, one steatite nutting stone, one steatite shaft smoother, one lot ochre, one lot steatite sherds, flakes, and fragments.

**Determinations Made by the State Center Community College District—Fresno City College**

Officials of the State Center Community College District—Fresno City College have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of six individuals of Native American ancestry based on the archeological context.
- Pursuant to 25 U.S.C. 3001(3)(A), the 452 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Cold Springs Rancheria of Mono Indians of California, based on geographical and oral traditional information.

**Additional Requestors and Disposition**

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Mary Beth Miller, Interim Dean of Social Sciences, in care of Jill Minar, Ph.D., Fresno City College of The State Center Community College District, 1101 East University Avenue, Fresno, CA 93741, telephone (559) 442–8210, email *jill.minar@fresnocitycollege.edu,* by July 15, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Cold Springs Rancheria of Mono Indians of California may proceed.

The State Center Community College District—Fresno City College is responsible for notifying The Consulted and Notified Tribes and Groups that this notice has been published.

Dated: May 14, 2019.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2019–12464 Filed 6–12–19; 8:45 am]

BILLING CODE 4312–52–P

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## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–NPS0028041; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: Department of Anthropology, Southern Methodist University, Dallas, TX

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Department of Anthropology, Southern Methodist University has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Department of Anthropology, Southern Methodist University. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Department of Anthropology, Southern Methodist University at the address in this notice by July 15, 2019.

**ADDRESSES:** B. Sunday Eiselt, Department of Anthropology, Southern Methodist University, 3225 Daniel Avenue, Heroy Hall #450, Dallas, TX 75205, telephone (214) 768–2915, email *seiselt@smu.edu*.

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Department of Anthropology, Southern Methodist University, Dallas, TX. The human remains and associated funerary objects were removed from 41HD5, known as the Lowden Site, in Hood County, TX.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

### Consultation

A detailed assessment of the human remains was made by the Department of Anthropology, Southern Methodist University professional staff in consultation with representatives of the Caddo Nation of Oklahoma.

### History and Description of the Remains

In 1968, human remains representing, at minimum, one individual were removed from the Lowden Site, in Hood County, TX. The site, located on private property was initially surveyed by E.B. Jelks and E.H. Moorman in 1953, for the River Basin Surveys project. The site was later excavated from March 7, 1968 to August 28, 1968, prior to the inundation of Lake Granbury. The burial was found in November 1968, while the site was being destroyed for construction of a dam. The burial was uncovered outside of the original excavation area as a result of plowing by a pay scraper. The well-preserved human remains belong to an adult male. When found, the backbones were oriented north and south, with the head facing south. Whether the individual was in an extended or flexed position is unknown. The ribs were facing east, indicating that the individual was placed on their left side. The burial was located six to eight feet below the surface in sandy fill with a six to eight inch layer of limestone fragments. No known individuals were identified. The three associated funerary objects are one point, one scraper, and one dart point. Because the burial was disturbed by a scraper plow, the location of associated funerary objects in relation to the human remains is unknown.

The site is dated to A.D. 1000 to 1200, based on the presence of Scallorn, and Perdiz points in the occupation area of the site. The original excavators determined that the people who occupied the Lowden site were Caddoan.

### Determinations Made by the Department of Anthropology, Southern Methodist University

Officials of the Department of Anthropology, Southern Methodist University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the three objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Caddo Nation of Oklahoma.

### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to B. Sunday Eiselt, Department of Anthropology, Southern Methodist University, 3225 Daniel Avenue, Heroy Hall #450, Dallas, TX 75205, telephone (214) 768–2915, email *seiselt@smu.edu,* by July 15, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Caddo Nation of Oklahoma may proceed.

The Department of Anthropology, Southern Methodist University is responsible for notifying the Caddo Nation of Oklahoma that this notice has been published.

Dated: May 28, 2019.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2019–12463 Filed 6–12–19; 8:45 am]

BILLING CODE 4312–52–P

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## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–NPS0028044; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: Department of Anthropology, Southern Methodist University, Dallas, TX

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Department of Anthropology, Southern Methodist University has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control

of these human remains and associated funerary objects should submit a written request to the Department of Anthropology, Southern Methodist University. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Department of Anthropology, Southern Methodist University at the address in this notice by July 15, 2019.

**ADDRESSES:** B. Sunday Eiselt, Department of Anthropology, Southern Methodist University, 3225 Daniel Avenue, Heroy Hall #450, Dallas, TX 75205, telephone (214) 768–2915, email *seiselt@smu.edu*.

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Department of Anthropology, Southern Methodist University, Dallas, TX. The human remains and associated funerary objects were removed from site 41CB53, known as the Morgan Jones Site, in Crosby County, TX.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

### Consultation

A detailed assessment of the human remains was made by the Department of Anthropology, Southern Methodist University professional staff in consultation with representatives of the Comanche Nation, Oklahoma.

### History and Description of the Remains

In 1967, human remains representing, at minimum, one individual were removed from the Morgan Jones site (41CB53), in Crosby County, TX. The human remains were found inside a rock shelter; caliche stones covered the mouth of the burial. The individual appears to be a young female, 13–15 years old. The human remains were placed in a flexed position on the right side, facing southwest towards the entrance of the rock shelter. Portions of the skeleton were missing, including the pelvis and most of the vertebrae, due to rodent disturbance. No known individuals were identified. The eight associated funerary objects are one whelk shell axe, three elk-tooth pendants, one brass buckle, one cinch buckle, one lump of blue-green pigment, and one textile. (One iron axe and 3,638 glass beads (403 white seed beads, 3,100 light blue beads, 131 dark blue beads, two green beads, and two donut-shaped beads) associated with this burial are currently missing from the collection. These items were transferred to an unknown location in Austin, TX, in March 1967, and efforts to find them have been unsuccessful.)

The Morgan Jones site dates from A.D. 1790 to the early 1800s, based on the brass cinch buckle found with the burial. According to correspondence from Curtis Tunnell (then the Texas State Archeologist), the brass cinch buckle is of Spanish-Mexican origin, and dates to the early 1800s. The plain brass buckle and axe are English or French. Based on the associated funerary objects, the cultural affiliation is definitively identified as Comanche.

### Determinations Made by the Department of Anthropology, Southern Methodist University

Officials of the Department of Anthropology, Southern Methodist University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the eight objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Comanche Nation, Oklahoma.

### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to B. Sunday Eiselt, Department of Anthropology, Southern Methodist University, 3225 Daniel Avenue, Heroy Hall #450, Dallas, TX 75205, telephone (214) 768–2915, email *seiselt@smu.edu,* by July 15, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Comanche Nation, Oklahoma may proceed.

The Department of Anthropology, Southern Methodist University is responsible for notifying the Comanche Nation, Oklahoma that this notice has been published.

Dated: May 28, 2019.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2019–12470 Filed 6–12–19; 8:45 am]

**BILLING CODE 4312–52–P**

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## DEPARTMENT OF THE INTERIOR

## National Park Service

**[NPS–WASO–NAGPRA–NPS0028040; PPWOCRADN0–PCU00RP14.R50000]**

## Notice of Inventory Completion: Department of Anthropology, Southern Methodist University, Dallas, TX

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Department of Anthropology, Southern Methodist University has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Department of Anthropology, Southern Methodist University. If no additional requestors come forward, transfer of control of the human remains to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Department of Anthropology, Southern Methodist University at the address in this notice by July 15, 2019.

**ADDRESSES:** B. Sunday Eiselt, Department of Anthropology, Southern Methodist University, 3225 Daniel Avenue, Heroy Hall #450, Dallas, TX 75205, telephone (214) 768–2915, email *seiselt@smu.edu.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Department of Anthropology, Southern Methodist University, Dallas, TX. The human remains were removed from site X41CX10, known as the Chimney Shelter Site, in Crockett County, TX.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

### Consultation

A detailed assessment of the human remains was made by the Department of Anthropology, Southern Methodist University professional staff in consultation with representatives of the Caddo Nation of Oklahoma and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma (hereafter referred to as ''The Consulted Tribes'').

### History and Description of the Remains

On November 18, 1966, human remains representing, at minimum, one individual were removed from the Chimney Shelter Site (X41CX10) in Crockett County, TX. The Chimney Shelter Site was one of several rockshelter sites excavated during the Crockett County Excavations project, a highway salvage project conducted by the State of Texas preceding the construction of Interstate Highway 10. The partial remains of one adult individual were found in the southern half of the rockshelter under a mound of limestone rocks. Small patches of degraded plant material found under the human remains were either matting or, (more likely, based on excavation notes) grass. No known individuals were identified. No associated funerary objects are present (no other artifacts were recovered from the rockshelter).

### Determinations Made by the Department of Anthropology, Southern Methodist University

Officials of the Department of Anthropology, Southern Methodist University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on burial context and the surrounding cultural sites.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian Tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of the Apache Tribe of Oklahoma; Comanche Nation, Oklahoma; and the Kiowa Indian Tribe of Oklahoma (hereafter, ''The Tribes'').
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Tribes.

### Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to B. Sunday Eiselt, Department of Anthropology, Southern Methodist University, 3225 Daniel Avenue, Heroy Hall #450, Dallas, TX 75205, telephone (214) 768–2915, email *seiselt@smu.edu,* by July 15, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

The Department of Anthropology, Southern Methodist University is responsible for notifying The Consulted Tribes and The Tribes that this notice has been published.

Dated: May 28, 2019.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2019–12462 Filed 6–12–19; 8:45 am]

BILLING CODE 4312–52–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–VRP–USPP–NPS0027436; PPWOUSPPS1, PPMPRPP02.Y00000 (199); OMB Control Number 1024–0245]**

### Agency Information Collection Activities; United States Park Police Pre-Employment Suitability Determination Process

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the National Park Service (NPS) are proposing to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before August 12, 2019.

**ADDRESSES:** Send your comments on this information collection request (ICR) by mail to Phadrea Ponds, Acting NPS Information Collection Clearance Officer, 1201 Oakridge Drive, Fort Collins, CO 80525; or by email at *phadrea_ponds@nps.gov;* or by telephone at 970–267–7231. Please reference OMB Control Number 1024–0245 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR by mail, contact Captain Jerry Marshall, 1100 Ohio Dr. SW, Washington, DC 2002; or by email at *jerry_marshall@nps.gov;* or by telephone at 202–610–5591. Please reference OMB Control Number 1024–0245 in the subject line of your comments.

**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 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 NPS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the NPS enhance the quality, utility, and

clarity of the information to be collected; and (5) how might the NPS 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 United States Park Police (USPP) is authorized by Title 5, Code of Federal Regulations, Section 5.2, ''Investigation and evaluations,'' to collect this information as required in the USPP Pre-employment Suitability Process. All USPP candidates are required to complete and pass competitive written examinations, oral interviews, medical examinations, psychological evaluations, and a battery of physical fitness and agility tests, as well as the forms listed below:

Form 10–2201, ''Personal Qualifications Statement''—provides information on the personal history of the candidate.

Form 10–2201A, ''Information Release Form''—authorizes the release of all personal and confidential records, to include medical records concerning physical and mental health.

Form 10–2201B, ''Release to Obtain a Credit Report''—authorizes the release of information from consumer reporting agencies.

Form 10–2201C, ''Lautenberg Certification''—requires information and certification by the applicant regarding a conviction of a misdemeanor crime of domestic violence.

Form 10–2201D, ''Physical Efficiency Battery ''Waiver'' ''—requires the candidate to provide information regarding medical conditions which may impede their ability to meet the minimum efficiency score on the Physical Efficiency Battery (PEB).

Form 10–2201E, ''Physician Consent Form''—requires physician certification for the candidate to participate in the PEB.

Form 10–2201F, ''Applicant Documentation Form''—required to be completed by the applicant when declining or deferring employment with the USPP.

*Title of Collection:* United States Park Police Pre-Employment Suitability Determination Process.

*OMB Control Number:* 1024–0245.

*Form Numbers:* NPS Forms 10–2201, 10–2201A through 10–2201F.

*Type of Review:* Extension of a currently approved collection.

*Respondents/Affected Public:* Candidates for employment as a United States Park Police Officer.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* On occasion.

*Total Estimated Annual Nonhour Burden Cost:* $238,752 (printing, notarizing and to providing supporting documentation).

| Activity | Estimated number of annual responses | Estimated completion time per response | Estimated total annual burden hours |
|---|---|---|---|
| Form 10–2201, ''Personal Qualification Statement'' | 2,500 | 7 hours | 17,500 |
| Form 10–2201A, ''Information Release Form'' | 2,500 | 15 minutes | 625 |
| Form 10–2201B, ''Release to Obtain a Credit Report'' | 2,500 | 10 minutes | 417 |
| Form 10–2201C, ''Lautenberg Certification'' | 2,500 | 5 minutes | 208 |
| Form 10–2201D, ''Physical Efficiency Battery ''Waiver'' '' | 2,500 | 10 minutes | 417 |
| Form 10–2201E, ''Physician Consent Form'' | 2,500 | 15 minutes | 625 |
| Form 10–2201F, ''Applicant Documentation Form'' | 15 | 5 minutes | 1 |
| Totals | 15,015 | ..... | 19,793 |

* Rounded.

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.*).

**Phadrea Ponds,**

*Acting Information Collection Clearance Officer, National Park Service.*

[FR Doc. 2019–12440 Filed 6–12–19; 8:45 am]

BILLING CODE 4312–52–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–NPS0028047; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: Fort Lewis College, Durango, CO

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** Fort Lewis College has completed an inventory of human remains in consultation with the appropriate Indian Tribes or Native Hawaiian organizations and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to Fort Lewis College. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Fort Lewis College at the address in this notice by July 15, 2019.

**ADDRESSES:** Dr. Kathleen Fine-Dare, NAGPRA Tribal Liaison, Fort Lewis College, Office of the President, 1000

Rim Drive, Durango, CO 81301 telephone (970) 247–7438, email *fine_k@fortlewis.edu.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of Fort Lewis College. The human remains were removed from three different locations in the area of Durango, in La Plata County, CO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

**Consultation**

A detailed assessment of the human remains was made by Fort Lewis College professional staff in consultation with representatives of the Hopi Tribe of Arizona; Kewa Pueblo, New Mexico (previously listed as the Pueblo of Santo Domingo); Ohkay Owingeh, New Mexico (previously listed as the Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Ysleta del Sur Pueblo (previously listed as the Ysleta Del Sur Pueblo of Texas); and the Zuni Tribe of the Zuni Reservation, New Mexico (hereafter referred to as ''The Tribes'').

**History and Description of the Remains**

In 1978, human remains representing, at minimum, one individual were removed from La Plata County, CO. Individuals were collecting antlers on private land when they found the human remains on the surface of the Animas Valley, along the western cliff edges. Some scattered fragments found on the cliff suggest that the individual had originally been placed in a crevice in the cliff face. La Plata County Sheriff's deputies called to the scene turned over the majority of the bones to Fort Lewis College, where they were assigned catalog number FLC 500. The human remains consist of a cranium with dentition and a partial postcranial skeleton (R scapula, pelvic girdle, L femur, L tibia, and several ribs), of an adult male 40–55 years of age whose cranial and dental characteristics are highly consistent with Native American ancestry. No known individuals were identified. No associated funerary objects are present.

Sometime in the 1960s, human remains representing, at minimum, one individual were removed from the vicinity of Berndt Hall on the Fort Lewis College campus in Durango, CO. The human remains of the individual, assigned catalog number FLC 609, consist of a cranium with dentition belonging to an adult male 35–45 years of age whose cranial characteristics are consistent with Native American ancestry. Based on other known archeological contexts from the immediate area, the notes accompanying the human remains state that they could plausibly be dated to BMIII to PI. There is no additional information regarding the circumstances under which the human remains arrived in the collection of the Department of Anthropology at Fort Lewis College. No known individuals were identified. No associated funerary objects are present.

Sometime in the mid- to later twentieth century a private landowner, Milo Dearien, came across the human remains of one individual during construction on 6440 County Road 203, north of Durango, in the north Animas Valley. Dearien transferred the human remains to Fort Lewis College in the mid-1980s. The human remains, consist of a cranium lacking teeth, belong to an adult female 30–45 years of age. No known individuals were identified. No associated funerary objects are present.

Based on the nature and location of the sites, the manner of burial, the treatment of the crania, the Native American biological characteristics of the crania, and the oral histories of the Ute peoples regarding life and death in the Durango region, the human remains in this notice are identified as Ute.

**Determinations Made by Fort Lewis College**

Officials of Fort Lewis College have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado and the Ute Mountain Ute Tribe (previously listed as the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah).

**Additional Requestors and Disposition**

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Dr. Kathleen Fine-Dare, NAGPRA Tribal Liaison, Fort Lewis College, Office of the President, 1000 Rim Drive, Durango, CO 81301, telephone (970) 247–7438, email *fine_k@fortlewis.edu,* by July 15, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado and the Ute Mountain Ute Tribe (previously listed as the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah) may proceed.

Fort Lewis College is responsible for notifying The Tribes that this notice has been published.

Dated: May 28, 2019.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2019–12467 Filed 6–12–19; 8:45 am]

BILLING CODE 4312–52–P

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## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–NPS0028043; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: Department of Anthropology, Southern Methodist University, Dallas, TX

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Department of Anthropology, Southern Methodist University has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Department of

Anthropology, Southern Methodist University. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Department of Anthropology, Southern Methodist University at the address in this notice by July 15, 2019.

**ADDRESSES:** B. Sunday Eiselt, Department of Anthropology, Southern Methodist University, 3225 Daniel Avenue, Heroy Hall #450, Dallas, TX 75205, telephone (214) 768–2915, email *seiselt@smu.edu*.

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Department of Anthropology, Southern Methodist University, Dallas, TX. The human remains were removed from the Lagow Sand Pit Site (41DL179), in Dallas County, TX.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

### Consultation

A detailed assessment of the human remains was made by the Department of Anthropology, Southern Methodist University professional staff in consultation with representatives of the Caddo Nation of Oklahoma; Coushatta Tribe of Louisiana; Tonkawa Tribe of Indians of Oklahoma; and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma (hereafter referred to as ''The Tribes'').

### History and Description of the Remains

At an unknown date, human remains representing, at minimum, one individual were removed from the Lagow Sand Pit Site (41DL79), in Dallas County, TX. The Lagow Sand Pit Site was initially a geological survey completed by Dr. Ellis Shuler of the Southern Methodist University Department of Geology. His initial research (Schuler 1923) indicated that the human remains were related to the Pleistocene bone bed in which they were found. Later research (Oakley and Howell, 1961; Crook, 1961), though, found that the burial was intrusional, and dates to the early Archaic. Though the burial was not complete when it was uncovered, the human remains appear to be from a single individual. There are no known individuals. There are no associated funerary objects.

### Determinations Made by the Department of Anthropology, Southern Methodist University

Officials of the Department of Anthropology, Southern Methodist University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and The Tribes.

### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to B. Sunday Eiselt, Department of Anthropology, Southern Methodist University, 3225 Daniel Avenue, Heroy Hall #450, Dallas, TX 75205, telephone (214) 768–2915, email *seiselt@smu.edu,* by July 15, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The Department of Anthropology, Southern Methodist University is responsible for notifying The Tribes that this notice has been published.

Dated: May 28, 2019.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2019–12465 Filed 6–12–19; 8:45 am]

**BILLING CODE 4312–52–P**

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## INTERNATIONAL TRADE COMMISSION

**[USITC SE–19–024]**

## Sunshine Act Meetings

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** June 25, 2019 at 9:30 a.m.

**PLACE:** Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote on Inv. Nos. 701–TA–452 and 731–TA–1129–1130 (Second Review) (Raw Flexible Magnets from China and Taiwan). The Commission is currently scheduled to complete and file its determinations and views of the Commission by August 30, 2019.
5. Vote on Inv. No. 731–TA–1114 (Second Review) (Steel Nails from China). The Commission is currently scheduled to complete and file its determination and views of the Commission by August 30, 2019.
6. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: June 10, 2019.

**William Bishop,**

*Supervisory Hearings and Information Officer.*

[FR Doc. 2019–12576 Filed 6–11–19; 11:15 am]

**BILLING CODE 7020–02–P**

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## INTERNATIONAL TRADE COMMISSION

**[USITC SE–19–023]**

## Sunshine Act Meetings

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** June 24, 2019 at 10:15 a.m.

**PLACE:** Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote on Inv. Nos. 701–TA–624–625 and 731–TA–1450–1451 (Preliminary) (Quartz Surface Products from India and Turkey). The Commission is currently scheduled to complete and file its determinations on June 24, 2019; views of the Commission are currently scheduled to be completed and filed on July 1, 2019.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not

disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: June 10, 2019.

**William Bishop,**

*Supervisory Hearings and Information Officer.*

[FR Doc. 2019–12575 Filed 6–11–19; 11:15 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–1424 (Final)]**

## Mattresses From China; Scheduling of the Final Phase of an Antidumping Duty Investigation

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–1424 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of mattresses from China, provided for in subheadings 9404.21.00, 9404.29.10, 9404.29.90, 9401.40.00, and 9401.90.50 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be sold at less-than-fair-value.

**DATES:** May 28, 2019.

**FOR FURTHER INFORMATION CONTACT:** Calvin Chang ((202) 205–3062), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Scope.*—For purposes of this investigation, Commerce has defined the subject merchandise as all types of youth and adult mattresses. The term ''mattress'' denotes an assembly of materials that at a minimum includes a ''core,'' which provides the main support system of the mattress, and may consist of innersprings, foam, other resilient filling, or a combination of these materials. Mattresses may also contain (1) ''upholstery,'' the material between the core and the top panel of the ticking on a single-sided mattress, or between the core and the top and bottom panel of the ticking on a double-sided mattress; and/or (2) ''ticking,'' the outermost layer of fabric or other material (*e.g.,* vinyl) that encloses the core and any upholstery, also known as a cover.

The scope of this investigation is restricted to only ''adult mattresses'' and ''youth mattresses.'' ''Adult mattresses'' have a width exceeding 35 inches, a length exceeding 72 inches, and a depth exceeding 3 inches on a nominal basis. Such mattresses are frequently described as ''twin,'' ''extra-long twin,'' ''full,'' ''queen,'' ''king,'' or ''California king'' mattresses. ''Youth mattresses'' have a width exceeding 27 inches, a length exceeding 51 inches, and a depth exceeding 1 inch (crib mattresses have a depth of 6 inches or less from edge to edge) on a nominal basis. Such mattresses are typically described as ''crib,'' ''toddler,'' or ''youth'' mattresses. All adult and youth mattresses are included regardless of actual size description.

The scope encompasses all types of ''innerspring mattresses,'' ''non-innerspring mattresses,'' and ''hybrid mattresses.'' ''Innerspring mattresses'' contain innersprings, a series of metal springs joined together in sizes that correspond to the dimensions of mattresses. Mattresses that contain innersprings are referred to as ''innerspring mattresses'' or ''hybrid mattresses.'' ''Hybrid mattresses'' contain two or more support systems as the core, such as layers of both memory foam and innerspring units.

''Non-innerspring mattresses'' are those that do not contain any innerspring units. They are generally produced from foams (*e.g.,* polyurethane, memory (viscoelastic), latex foam, gel-infused viscoelastic (gel foam), thermobonded polyester, polyethylene) or other resilient filling.

Mattresses covered by the scope of this investigation may be imported independently, as part of furniture or furniture mechanisms (*e.g.,* convertible sofa bed mattresses, sofa bed mattresses imported with sofa bed mechanisms, corner group mattresses, day-bed mattresses, roll-away bed mattresses, high risers, trundle bed mattresses, crib mattresses), or as part of a set in combination with a ''mattress foundation.'' ''Mattress foundations'' are any base or support for a mattress. Mattress foundations are commonly referred to as ''foundations,'' ''boxsprings,'' ''platforms,'' and/or ''bases.'' Bases can be static, foldable, or adjustable. Only the mattress is covered by the scope if imported as part of furniture, with furniture mechanisms, or as part of a set in combination with a mattress foundation.

Excluded from the scope of this investigation are ''futon'' mattresses. A ''futon'' is a bi-fold frame made of wood, metal, or plastic material, or any combination thereof, that functions as both seating furniture (such as a couch, love seat, or sofa) and a bed. A ''futon mattress'' is a tufted mattress, where the top covering is secured to the bottom with thread that goes completely through the mattress from the top through to the bottom, and it does not contain innersprings or foam. A futon mattress is both the bed and seating surface for the futon.

Also excluded from the scope are airbeds (including inflatable mattresses) and waterbeds, which consist of air- or liquid-filled bladders as the core or main support system of the mattress.

Further, also excluded from the scope of this investigation are any products covered by the existing antidumping duty order on uncovered innerspring units. See Uncovered Innerspring Units from the People's Republic of China: Notice of Antidumping Duty Order, 74 FR 7661 (February 19, 2009).

Additionally, also excluded from the scope of this investigation are ''mattress toppers.'' A ''mattress topper'' is a removable bedding accessory that supplements a mattress by providing an additional layer that is placed on top of a mattress. Excluded mattress toppers have a height of four inches or less.

The products subject to this investigation are currently properly classifiable under Harmonized Tariff Schedule for the United States (HTSUS) subheadings: 9404.21.0010, 9404.21.0013, 9404.29.1005, 9404.29.1013, 9404.29.9085, and 9404.29.9087. Products subject to this investigation may also enter under HTSUS subheadings: 9404.21.0095, 9404.29.1095, 9404.29.9095, 9401.40.0000, and 9401.90.5081. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this investigation is dispositive.

*Background.*—The final phase of this investigation is being scheduled, pursuant to section 735(b) of the Tariff

Act of 1930 (19 U.S.C. 1673d(b)), as a result of an affirmative preliminary determination by Commerce that imports of mattresses from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on September 18, 2018, by Corsicana Mattress Company, Dallas, Texas; Elite Comfort Solutions, Newman, Georgia; Future Foam Inc., Council Bluffs, Iowa; FXI, Inc. Media, Pennsylvania; Innocor, Inc., Red Bank, New Jersey; Kolcraft Enterprises Inc., Chicago, Illinois; Leggett & Platt, Incorporated, Carthage, Missouri; Serta Simmons Bedding, LLC, Atlanta, Georgia; and Tempur Sealy International, Inc., Lexington, Kentucky.

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

*Participation in the investigation and public service list.*—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Staff report.*—The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on September 19, 2019, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

*Hearing.*—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on Thursday, October 10, 2019, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 4, 2019. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on October 8, 2019, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

*Written submissions.*—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is September 26, 2019. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is October 17, 2019. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation, including statements of support or opposition to the petition, on or before October 17, 2019. On November 5, 2019, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 7, 2019, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: June 7, 2019.

**Katherine Hiner,**

*Supervisory Attorney.*

[FR Doc. 2019–12434 Filed 6–12–19; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–392]**

### Bulk Manufacturer of Controlled Substances Registration

**ACTION:** Notice of registration.

**SUMMARY:** The registrant listed below has applied for and been granted a registration by the Drug Enforcement Administration (DEA) as a bulk manufacturer of a basic class of schedule II controlled substances.

**SUPPLEMENTARY INFORMATION:** The company listed below applied to be registered as a bulk manufacturer of a basic class of schedule II controlled substances. Information on a previously published notice is listed below. No

comments or objections were submitted for the notice.

| Company | FR docket | Published |
|---|---|---|
| Navinta, LLC | 84 FR 5498 | February 21, 2019. |

The DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of this registrant to manufacture the applicable basic class of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the DEA has granted a registration as a bulk manufacturer to the above listed company.

Dated: June 3, 2019.

**John J. Martin,**

*Assistant Administrator.*

[FR Doc. 2019–12504 Filed 6–12–19; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–392]**

### Bulk Manufacturer of Controlled Substances Application: Sigma Aldrich Research

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before August 12, 2019.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 1301.33(a), this is notice that on March 7, 2019, Sigma Aldrich Research, Biochemicals, Inc., 400–600 Summit Drive, Burlington, Massachusetts 01803 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

| Controlled substance | Drug code | Schedule |
|---|---|---|
| Cathinone | 1235 | I |
| Mephedrone (4-Methyl-N-methylcathinone) | 1248 | I |
| Lysergic acid diethylamide | 7315 | I |
| Tetrahydrocannabinols | 7370 | I |
| 3,4-Methylenedioxymethamphetamine | 7405 | I |
| Alpha-methyltryptamine | 7432 | I |
| Dimethyltryptamine | 7435 | I |
| 5-Methoxy-N,N-diisopropyltryptamine | 7439 | I |
| N-Benzylpiperazine | 7493 | I |
| 2-(2,5-Dimethoxyphenyl) ethanamine (2C-H) | 7517 | I |
| MDPV (3,4-Methylenedioxypyrovalerone) | 7535 | I |
| Methylone (3,4-Methylenedioxy-N-methylcathinone) | 7540 | I |
| Heroin | 9200 | I |
| Normorphine | 9313 | I |
| Norlevorphanol | 9634 | I |
| Amphetamine | 1100 | II |
| Nabilone | 7379 | II |
| Phencyclidine | 7471 | II |
| Cocaine | 9041 | II |
| Codeine | 9050 | II |
| Ecgonine | 9180 | II |
| Levorphanol | 9220 | II |
| Meperidine | 9230 | II |
| Methadone | 9250 | II |
| Morphine | 9300 | II |
| Thebaine | 9333 | II |
| Levo-alphacetylmethadol | 9648 | II |
| Noroxymorphone | 9668 | II |
| Remifentanil | 9739 | II |
| Sufentanil | 9740 | II |
| Carfentanil | 9743 | II |
| Fentanyl | 9801 | II |

The company plans to manufacture reference standards.

Dated: June 3, 2019.

**John J. Martin,**

*Assistant Administrator.*

[FR Doc. 2019–12503 Filed 6–12–19; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. 18–29]**

### Elizabeth C. Korcz, M.D.; Decision and Order

On March 28, 2018, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause (hereinafter, OSC) to Elizabeth C. Korcz, M.D. (hereinafter, Respondent), who is registered in Hoover, Alabama. The OSC proposed to revoke Respondent's DEA Certificate of Registration (hereinafter, COR) No. FK0505428, pursuant to 21 U.S.C. §§ 823(f) and 824(a)(3), on the ground that she does not have authority to handle controlled substances in

Alabama, the State in which she is registered with the DEA. OSC, at 1.

With respect to the DEA's jurisdiction, the OSC alleged that Respondent is registered with the DEA as a practitioner authorized to handle controlled substances in schedules II through V under DEA COR No. FK0505428 at the registered address of 3421 S. Shades Crest Road, Suite 111, Hoover, Alabama 35244. *Id.* The OSC stated that Respondent's registration was current and not due to expire until December 31, 2019. *Id.*

Regarding the substantive grounds for the proceeding, the OSC specifically alleged that Respondent agreed to voluntarily surrender her Alabama Controlled Substance Certificate (hereinafter, CSC) No. ACSC.28343 pending the resolution of an investigation undertaken by the Alabama State Board of Medical Examiners (hereinafter, State Board) alleging Respondent dispensed controlled substances for no legitimate purpose. *Id.* Furthermore, the OSC alleged that the status of Respondent's CSC was listed as ''inactive-failed to renew.'' *Id.* at 2. The OSC stated: ''[T]he DEA must revoke . . . [her] COR based upon . . . [her] lack of authority to handle controlled substances in the State of Alabama.'' *Id.,* citing 21 U.S.C. §§ 823(f) and 824(a)(3).

The OSC then notified Respondent of her right to request a hearing on the allegations, or to submit a written statement in lieu of a hearing, the procedure for doing either, and the consequence for failing to elect either option. *Id.* at 2, citing 21 CFR 1301.43. It also notified her of her right to submit a corrective action plan in accordance with 21 U.S.C. 824(c)(2)(C). *Id.* at 2–3.

By letter dated May 2, 2018, Respondent timely requested a hearing.[1] Hearing Request (hereinafter, HR), at 1. According to the HR, ''[Respondent's] license to practice medicine and prescribe controlled substances was under review [by the State Board] when the United States Government raided her practice and served her with a target letter.'' *Id.* The HR continued: ''In light of the federal investigation, . . . [Respondent] requested a stay of the [State Board's] scheduled hearing. In order for the Board to agree to a stay, they requested she voluntarily surrender her ability to prescribe controlled substances. On advice of counsel, she voluntarily agreed.'' *Id.* Furthermore, the HR stated that Respondent ''objects to the revocation of her DEA registration'' and requested that the hearing ''be stayed pending the outcome of the investigation.'' *Id.*

The Office of Administrative Law Judges put the matter on the docket and assigned it to Administrative Law Judge Mark M. Dowd (hereinafter, ALJ). On May 3, 2018, the ALJ issued an Order Directing the Filing of Government Evidence of Lack of State Authority Allegation and Briefing Schedule.

On May 17, 2018, the Government filed a timely Motion for Summary Disposition (hereinafter, MSD) based on Respondent's lack of State authority to handle controlled substances. MSD, at 1. The Government attached five documents to its MSD. The Government attached a Certification of Registration Status, dated April 12, 2018, with a copy of DEA COR No. FK0505428. *Id.* at Att. 1. In addition, the Government attached a copy of Respondent's voluntary surrender of her Alabama CSC (hereinafter, Voluntary Surrender), which was dated August 23, 2017. *Id.* at Att. 2. Further, the Government attached a copy of the Medical Licensure Commission of Alabama's Order on Motion to Stay, which was dated August 25, 2017. *Id.* at Att. 3. Furthermore, the Government attached a copy of Respondent's License Details from the State Board, which was printed on May 7, 2018. *Id.* at Att. 4. Finally, the Government attached the Declaration of a DEA Diversion Investigator, which was dated May 8, 2018. *Id.* at Att. 5.

According to the MSD, ''DEA's investigation reveals that Respondent has agreed to the voluntary surrender of her Alabama . . . [CSC] pending resolution of a current investigation by the [State Board].'' MSD, at 3. Furthermore, according to the MSD, Respondent's License Details shows that ''the status of the Respondent's [CSC] is listed as 'Inactive-Failed to Renew,' and that [the CSC] expired on December 31, 2017.'' *Id.* Citing 21 U.S.C. 802(21), 823(f), and 824(a)(3), the Government argues that the DEA ''cannot register or maintain the registration of a practitioner not duly authorized to handle controlled substances in the state in which . . . [the practitioner] conducts business.'' *Id.* Furthermore, the Government contends: ''Respondent is currently not authorized to handle controlled substances in the state in which she currently holds a DEA COR.'' *Id.* at 4. Thus, according to the Government, Respondent is not authorized to possess a DEA COR in Alabama unless she is authorized to dispense controlled substances in the State of Alabama. *Id.* at 3.

Respondent did not file any response to the Government's MSD or evidence. Order Granting the Government's Motion for Summary Disposition and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge dated June 6, 2018 (hereinafter, R.D.), at 3.

The ALJ granted the MSD and recommended that Respondent's registration be revoked. *Id.* at 6. The ALJ determined: ''At this juncture, no dispute exists over the fact that the Respondent currently lacks state authority to handle controlled substances in Alabama due to the voluntary surrender of her . . . [CSC] on August 23, 2017, and the Alabama State Board of Medical Examiner's acceptance of the Respondent's voluntary surrender on August 25, 2017.'' *Id.* at 5–6. The ALJ continued: ''Because the Respondent lacks state authority at the present time, . . . [DEA] precedent dictates that she is not entitled to maintain her DEA registration.'' *Id.* at 6. The ALJ concluded: ''Simply put, there is no contested factual matter that could be introduced at a hearing that would, in the Agency's view, provide authority to allow Respondent to continue to hold her DEA COR.'' *Id.* The ALJ recommended that Respondent's registration be revoked and that pending applications for renewal be denied. *Id.*

By letter dated July 3, 2018, the ALJ certified and transmitted the record to me for final Agency action. In that letter, the ALJ stated that no exceptions were filed by either party.

I issue this Decision and Order based on the entire record before me. 21 CFR § 1301.43(e). I make the following findings of fact.

## Findings of Fact

### *Respondent's DEA Registration*

Respondent holds DEA COR No. FK0505428, pursuant to which she is authorized to handle controlled substances in schedules II through V as a practitioner, at the registered address of 3421 S. Shades Crest Road, Suite 111, Hoover, Alabama 35244. MSD, at Att. 1. This registration is in an active pending status and expires on December 31, 2019. *Id.*

### *The Status of Respondent's State License*

On August 23, 2017, Respondent voluntarily surrendered her Alabama CSC after the State Board filed an Order to Show Cause whose allegations include excessive dispensing of controlled substances, dispensing controlled substances for no legitimate medical purpose, and dispensing

[1] Based on the undisputed evidence in the record regarding the date the OSC was served on Respondent, April 2, 2018, I find that Respondent timely requested a hearing.

controlled substances in amounts not reasonably related to the proper medical management of patients' illnesses or conditions. *Id.* at Att. 2. In her Voluntary Surrender, Respondent stated: ''I understand and acknowledge I will have no authority to order, dispense, distribute, administer or prescribe controlled substances in the state of Alabama.'' *Id.* Thus, there is no dispute that Respondent voluntarily surrendered her authority to handle controlled substances in Alabama. Further, as recorded by the State Board, the status of Respondent's CSC is ''Inactive-Failed to Renew.'' *Id.* at Att. 4. Based on my review of the website of the State Board and the Medical Licensure Commission of Alabama, the status of Respondent's CSC has not changed.[2] Alabama Board of Medical Examiners and Medical Licensure Commission of Alabama Online License Verification, *https://abme.igovsolution.com/online/Lookups/*Individual_Lookup.aspx (last visited May 22, 2019).

Accordingly, I find that Respondent currently is without authority to dispense controlled substances in Alabama, the State in which she is registered.

**Discussion**

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA), ''upon a finding that the registrant . . . has had [her] State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71,371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27,616, 27,617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which [s]he practices . . ., to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. § 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which [s]he practices.'' 21 U.S.C. § 823(f). Because Congress has clearly mandated that a practitioner possess State authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever a practitioner is no longer authorized to dispense controlled substances under the laws of the State in which she practices. *See, e.g., Hooper, supra,* 76 FR at 71,371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.,* 53 FR 11,919, 11,920 (1988), *Blanton, supra,* 43 FR at 27,617.

Here, the undisputed evidence in the record is that Respondent voluntarily surrendered her Alabama CSC. The fact that Respondent may, some day, regain her State registration to dispense controlled substances does not change the salient fact that Respondent is not currently authorized to handle controlled substances in the State in which she is registered. *Mehdi Nikparvarfard, M.D.,* 83 FR 14,503, 14,504 (2018). Respondent, therefore, is not eligible for a DEA COR. Accordingly, I will order that Respondent's DEA COR be revoked and that any pending application for the renewal or modification of that COR be denied. 21 U.S.C. §§ 823(f) and 824(a)(3).

**Order**

Pursuant to 28 CFR § 0.100(b) and the authority vested in me by 21 U.S.C. § 824(a), I order that DEA COR No. FK0505428 issued to Elizabeth C. Korcz, M.D., be, and it hereby is, revoked. Pursuant to 28 CFR § 0.100(b) and the authority vested in me by 21 U.S.C. § 823(f), I further order that any pending application of Elizabeth C. Korcz, M.D., to renew or modify this registration, as well as any other pending application by her for registration in the State of Alabama be, and it hereby is, denied. This Order is effective July 15, 2019.

Dated: May 22, 2019.

**Uttam Dhillon,**

*Acting Administrator.*

[FR Doc. 2019–12506 Filed 6–12–19; 8:45 am]

BILLING CODE 4410–09–P

## DEPARTMENT OF JUSTICE

## Drug Enforcement Administration

**[Docket No. DEA–392]**

## Bulk Manufacturer of Controlled Substances Application: Eli-Elsohly Laboratories

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before August 12, 2019.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 1301.33(a), this is notice that on March 14, 2019, Eli-Elsohly Laboratories, Mahmoud A. Elsohly Ph.D., 5 Industrial Park Drive, Oxford, Mississippi 38655 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

| Controlled substance | Drug code | Schedule |
|---|---|---|
| Marihuana Extract | 7350 | I |
| Marihuana | 7360 | I |

[2] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. § 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Respondent may dispute my finding by filing a properly supported motion for reconsideration within 15 calendar days of the date of this Order. Any such motion shall be filed with the Office of the Administrator and a copy shall be served on the Government; in the event Respondent files a motion, the Government shall have 15 calendar days to file a response.

| Controlled substance | Drug code | Schedule |
|---|---|---|
| Tetrahydrocannabinols | 7370 | I |
| Dihydromorphine | 9145 | I |
| Amphetamine | 1100 | II |
| Methamphetamine | 1105 | II |
| Cocaine | 9041 | II |
| Codeine | 9050 | II |
| Dihydrocodeine | 9120 | II |
| Oxycodone | 9143 | II |
| Hydromorphone | 9150 | II |
| Ecgonine | 9180 | II |
| Hydrocodone | 9193 | II |
| Morphine | 9300 | II |
| Thebaine | 9333 | II |
| Oxymorphone | 9652 | II |

The company plans to manufacture the listed controlled substances for product development and reference standards. In reference to drug codes 7360 (marihuana) and 7370 (THC), the company plans to isolate these controlled substances from procured 7350 (marihuana extract). In reference to drug code 7360, no cultivation activities are authorized for this registration. No other activities for these drug codes are authorized for this registration.

Dated: June 3, 2019.

**John J. Martin,**

*Assistant Administrator.*

[FR Doc. 2019–12505 Filed 6–12–19; 8:45 am]

**BILLING CODE 4410–09–P**

## NUCLEAR REGULATORY COMMISSION

## Advisory Committee on Reactor Safeguards; Procedures for Meetings

### Background

This notice describes procedures to be followed with respect to meetings conducted by the U.S. Nuclear Regulatory Commission's (NRC's) Advisory Committee on Reactor Safeguards (ACRS) pursuant to the Federal Advisory Committee Act (FACA). These procedures are set forth so that they may be incorporated by reference in future notices for individual meetings.

The ACRS is a statutory advisory Committee established by Congress to review and report on nuclear safety matters and applications for the licensing of nuclear facilities. The Committee's reports become a part of the public record.

The ACRS meetings are conducted in accordance with FACA; they are normally open to the public and provide opportunities for oral or written statements from members of the public to be considered as part of the Committee's information gathering process. ACRS reviews do not normally encompass matters pertaining to environmental impacts other than those related to radiological safety.

The ACRS meetings are not adjudicatory hearings such as those conducted by the NRC's Atomic Safety and Licensing Board Panel as part of the Commission's licensing process.

### General Rules Regarding ACRS Full Committee Meetings

An agenda will be published in the **Federal Register** for each full Committee meeting. There may be a need to make changes to the agenda to facilitate the conduct of the meeting. The Chairman of the Committee is empowered to conduct the meeting in a manner that, in his/her judgment, will facilitate the orderly conduct of business, including making provisions to continue the discussion of matters not completed on the scheduled day on another day of the same meeting. Persons planning to attend the meeting may contact the Designated Federal Officer (DFO) specified in the **Federal Register** notice prior to the meeting to be advised of any changes to the agenda that may have occurred.

The following requirements shall apply to public participation in ACRS Full Committee meetings:

(a) Persons who plan to submit written comments at the meeting should provide 35 copies to the DFO at the beginning of the meeting. Persons who cannot attend the meeting, but wish to submit written comments regarding the agenda items may do so by sending a readily reproducible copy addressed to the DFO specified in the **Federal Register** notice, care of the Advisory Committee on Reactor Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Comments should be limited to items being considered by the Committee. Comments should be in the possession of the DFO 5 days prior to the meeting to allow time for reproduction and distribution.

(b) Persons desiring to make oral statements at the meeting should make a request to do so to the DFO; if possible, the request should be made 5 days before the meeting, identifying the topic(s) on which oral statements will be made and the amount of time needed for presentation so that orderly arrangements can be made. The Committee will hear oral statements on topics being reviewed at an appropriate time during the meeting as scheduled by the Chairman.

(c) Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained by contacting the DFO.

(d) The use of still, motion picture, and television cameras will be permitted at the discretion of the Chairman and subject to the condition that the use of such equipment will not interfere with the conduct of the meeting. The DFO will have to be notified prior to the meeting and will authorize the use of such equipment after consultation with the Chairman. The use of such equipment will be restricted as is necessary to protect proprietary or privileged information that may be in documents, folders, etc., in the meeting room. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

(e) A transcript will be kept for certain open portions of the meeting and will be available in the NRC Public Document Room (PDR), One White Flint North, Room O–1F21, 11555 Rockville Pike, Rockville, Maryland 20852–2738. A copy of the certified minutes of the meeting will be available at the same location three months following the meeting. Copies may be obtained upon payment of appropriate reproduction charges. ACRS meeting agendas, transcripts, and letter reports are

available at *pdr@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from Agencywide Documents Access and Management System (ADAMS) which is accessible from the NRC website at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/ACRS/agenda/.*

(f) Video teleconferencing service may be available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact the ACRS Audio Visual Office, telephone: 301–415–6702, between 7:30 a.m. and 3:45 p.m. Eastern Time at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

**ACRS Subcommittee Meetings**

In accordance with FACA, the agency is not required to apply the FACA requirements to meetings conducted by the Subcommittees of the NRC Advisory Committees if the Subcommittee's recommendations would be independently reviewed by its parent Committee. Most, if not all, Subcommittee meetings are held to conduct preparatory activities and work that will be the subject of deliberations at a full Committee meeting.

In an effort to maintain transparency of Subcommittee activities, the ACRS has chosen to conduct its Subcommittee meetings in accordance with the procedures noted above for ACRS Full Committee meetings, as appropriate and with the exception noted below, to facilitate public participation, and to provide a forum for stakeholders to express their views on regulatory matters being considered by the ACRS. One specific exception is that for Subcommittee meetings not subject to FACA, rather than publish an agenda in the **Federal Register**, the ACRS will publish agendas of Subcommittee meetings on the NRC public meeting schedule website and the ACRS public meeting website, which may be found at *www.nrc.gov/pmns/mtg* and *www.nrc.gov/reading-rm/doc-collections/acrs/agenda.* Consistent with past practice for full Committee and Subcommittee meetings, members of the public who desire to provide written or oral input to the Subcommittee may continue to do so and should contact the DFO five days prior to the meeting, as practicable. When Subcommittee meetings are held at locations other than at NRC facilities, reproduction facilities may not be available at a reasonable cost. Accordingly, 50 copies of the materials to be used during the meeting should be provided for distribution at such meetings.

**Special Provisions When Proprietary Sessions Are To Be Held**

If it is necessary to hold closed sessions for the purpose of discussing matters involving proprietary information, persons with agreements permitting access to such information may attend those portions of the ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and related to the material being discussed.

The DFO should be informed of such an agreement at least five working days prior to the meeting so that it can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. The minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the DFO prior to the beginning of the meeting for admittance to the closed session.

Dated: June 7, 2019.

**Russell E. Chazell,**

*Federal Advisory Committee Management Officer, Office of the Secretary.*

[FR Doc. 2019–12425 Filed 6–12–19; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[NRC–2019–0124]**

## Report to Congress on Abnormal Occurrences; Fiscal Year 2018 Dissemination of Information

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** NUREG; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing NUREG–0090, Volume 41, ''Report to Congress on Abnormal Occurrences: Fiscal Year 2018.'' The report describes those events that the NRC or an Agreement State identified as abnormal occurrences (AOs) during fiscal year (FY) 2018, based on the criteria defined in the report. The report describes eight events at Agreement State-licensed facilities and three events at an NRC-licensed facilities.

**DATES:** NUREG–0090, Volume 41, is available June 13, 2019.

**ADDRESSES:** Please refer to Docket ID NRC–2019–0124 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–2019–0124. Address questions about NRC dockets 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 ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The 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:** Vered Shaffer, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 630–829–9862, email: *Vered.Shaffer@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Discussion

Section 208 of the Energy Reorganization Act of 1974, as amended (Pub. L. 93–438), defines an ''abnormal occurrence'' (AO) as an unscheduled incident or event that the NRC determines to be significant from the standpoint of public health or safety. The AO report, NUREG–0090, Volume 41, ''Report to Congress on Abnormal Occurrences: Fiscal Year 2018''

(ADAMS Accession No. ML19157A308), describes those events that the NRC identified as AOs during FY 2018, based on the criteria defined in Appendix A of the report.

The report describes three events involving NRC licensees that the agency identified as AOs in fiscal year (FY) 2018 based on the criteria defined in Appendix A, ''Abnormal Occurrence Criteria and Guidelines for Other Events of Interest,'' to the report. Two AOs were medical events as defined in title 10 of the *Code of Federal Regulations* (10 CFR) part 35, ''Medical Use of Byproduct Material.'' The third AO event involved a category 2 source, as defined in 10 CFR part 37, ''Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.'' During this reporting period, the NRC did not identify any events at commercial nuclear power plants in the United States as AOs. The report also describes eight AOs that occurred in Agreement States (AS) and that were identified as AOs during FY 2018 based on the criteria defined in Appendix A. Seven were medical events, as defined in 10 CFR part 35, and one event involved radiography operations. Of the 11 AOs discussed in the report, one occurred in FY 2017 but is included in this report because the NRC completed its evaluation of the event during FY 2018 once relevant information became available.

Agreement States are the 38 U.S. States that currently have entered into formal agreements with the NRC pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (AEA), to regulate certain quantities of AEA-licensed material at facilities located within their borders.

The Federal Reports Elimination and Sunset Act of 1995 (Pub. L. 104–68) requires that AOs be reported to Congress annually. The full report, NUREG–0090, Volume 41, ''Report to Congress on Abnormal Occurrences: Fiscal Year 2018,'' is also available electronically at the NRC's website at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/.*

Dated at Rockville, Maryland, on June 10, 2019.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 2019–12494 Filed 6–12–19; 8:45 am]

**BILLING CODE 7590–01–P**

## POSTAL REGULATORY COMMISSION

**[Docket Nos. CP2018–290; MC2019–149 and CP2019–166; MC2019–150 and CP2019–167]**

## New Postal Products

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* June 17, 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).:* CP2018–290; *Filing Title:* USPS Notice of Amendment to Priority Mail Contract 463, Filed Under Seal; *Filing Acceptance Date:* June 7, 2019; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* June 17, 2019.

2. *Docket No(s).:* MC2019–149 and CP2019–166; *Filing Title:* USPS Request to Add Priority Mail Contract 532 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 7, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* June 17, 2019.

3. *Docket No(s).:* MC2019–150 and CP2019–167; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 103 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 7, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* June 17, 2019.

This Notice will be published in the **Federal Register**.

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2019–12497 Filed 6–12–19; 8:45 am]

**BILLING CODE 7710–FW–P**

[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).

## 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:* June 13, 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 June 7, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 103 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–150, CP2019–167.

**Elizabeth Reed,**

*Attorney, Corporate and Postal Business Law.*

[FR Doc. 2019–12433 Filed 6–12–19; 8:45 am]

BILLING CODE 7710–12–P

## POSTAL SERVICE

### Product Change—Priority Mail 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:* June 13, 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 June 7, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 532 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–149, CP2019–166.

**Elizabeth Reed,**

*Attorney, Corporate and Postal Business Law.*

[FR Doc. 2019–12432 Filed 6–12–19; 8:45 am]

BILLING CODE 7710–12–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86061; File No. SR–NYSEAMER–2019–22]**

### Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Commentary .02 to Rule 960NY in Order To Extend the Penny Pilot in Options Classes in Certain Issues

June 7, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on May 30, 2019, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .02 to Rule 960NY in order to extend the Penny Pilot in options classes in certain issues (''Pilot Program'') previously approved by the Securities and Exchange Commission (''Commission'') through December 31, 2019. The Pilot Program is currently scheduled to expire on June 30, 2019. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange hereby proposes to amend Commentary .02 to Rule 960NY, to extend the time period of the Pilot Program, which is currently scheduled to expire on June 30, 2019, through December 31. 2019.[4] The Exchange believes that the proposed extension would allow for further analysis of the Pilot Program and a determination of how the Pilot Program should be structured in the future.

This filing does not propose any substantive changes to the Pilot Program: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [5] of Act, in general, and furthers the objectives of Section 6(b)(5),[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

In particular, the proposed rule change, which extends the Penny Pilot Program for six months, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it. Accordingly, the Exchange believes that the proposal is consistent with the Act

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities and Exchange Act Release No. 84871 (December 19, 2018) 83 FR 66789 (December 27, 2018) (SR–NYSE AMER–2018–57).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

because it would allow the Exchange to extend the Pilot Program prior to its expiration on June 30, 2019. The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of an existing program that operates on a pilot basis.

The Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants.

The proposal to extend the Pilot Program is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, by allowing the Exchange and the Commission additional time to analyze the impact of the Pilot Program while also allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

*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. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how this Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot Program is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot Program will allow for continued competition between Exchange market participants trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

*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 [7] and Rule 19b–4(f)(6) thereunder.[8] 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.[9]

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) [10] of the Act to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2019–22 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2019–22. 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–NYSEAMER–2019–22 and should be submitted on or before July 5, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–12446 Filed 6–12–19; 8:45 am]

**BILLING CODE 8011–01–P**

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii). Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that the Exchange satisfied this requirement.

[10] 15 U.S.C. 78s(b)(2)(B).

[11] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86065; File No. SR–CBOE–2019–029]**

## Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Rules Relating to Registration of Trading Permit Holders

June 7, 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 June 6, 2019, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, and II, below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend its rules relating to registration of Trading Permit Holders. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend certain rules relating to the registration of its Trading Permit Holders (''TPHs'').

Qualifications of TPHs

The Exchange first proposes to amend its rules that set forth the qualifications required to be an individual TPH or TPH organization. Particularly, Rule 3.2(b) currently provides, among other things, that an individual must be approved to engage in one or more of the following enumerated trading functions: (i) Market-Maker, (ii) Floor Broker, (iii) Proprietary Trading Permit Holder, (iv) DPM Designee, (v) FLEX Appointed Market-Maker and (vi) FLEX Qualified Market-Maker. Similarly, Rule 3.3(b) provides, in relevant part that a TPH organization must be approved to engage in one or more of the following trading functions: (i) TPH organization approved to transact business with the public, (ii) Clearing Trading Permit Holder, (iii) order service firm, (iv) Market-Maker; (v) Lead Market-Maker, (vi) Designated Primary Market-Maker, and (vii) Proprietary Trading Permit Holder.

The Exchange proposes to eliminate subparagraph (b) of Rules 3.2 and 3.3. The Exchange does not believe it is necessary to enumerate in the manner that it has the trading functions for which a TPH may be approved to engage in, nor is it required to do so. Indeed, the Exchange notes that other Exchanges with similar rules governing member qualifications do not include such a list, including its affiliate Exchanges.[5] The Exchange believes eliminating the enumerated categories from its rules provides the Exchange more flexibility in the future should additional registration capacities be added or removed. In connection with the proposed change, the Exchange also proposes to eliminate cross references to Rules 3.2(b) and 3.3(b).[6]

TPH Orientation and Qualification Examination

The Exchange proposes to amend its rule governing the Exchange's Trading Permit Holder Orientation Program and Trading Permit Holder Qualification Exam. Rule 3.9(e) currently provides that any person applying pursuant to paragraph (a) of Rule 3.9 to have an authorized trading function[7] is required to complete the Exchange's Trading Permit Holder Orientation Program (''TPH Orientation'') and to pass an Exchange Trading Permit Holder Qualification Exam (''TPH Exam''). The Exchange proposes to eliminate in its entirety the requirement to complete the TPH Orientation and take the TPH Exam. Particularly, the Exchange believes that the qualification requirements under Exchange Rule 3.6A adequately test TPH applicants' knowledge of the securities industry. For example, all representative-level applicants are now required to take the Securities Industry Essentials Examination (''SIE'') which assesses basic product knowledge; the structure and function of the securities industry markets, regulatory agencies and their functions; and regulated and prohibited practices in addition to passing the appropriate qualification examination (*e.g.,* Series 57). Additionally, the Exchange notes that all TPHs are subject to continuing education requirements under Rule 9.3A, which, among other things, requires each TPH and TPH organization to maintain a continuing and current education program for its covered registered persons to enhance their securities knowledge, skills and professionalism. As such, the Exchange believes requiring such individuals to also attend a TPH Orientation and take a TPH Exam in order to participate on the Exchange is unnecessary and duplicative. The Exchange therefore seeks to eliminate these requirements.

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.[8] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirements that the rules of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Rules of Cboe C2, Exchange, Inc., Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Cboe EDGX Exchange, Inc. and Cboe EDGX Exchange, Inc. *See also e.g.,* Nasdaq PHLX LLC Rule 910 and Nasdaq PHLX Rulebook generally. *See also,* NYSE Arca LLC Rules 2.2, 2.3 and NYSE Arca Rulebook generally.

[6] The Exchange notes that Rule 3.10 references Rule 3.3(c) instead of Rule 3.3(b). The Exchange notes it inadvertently failed to update the reference and that indeed, subparagraph (c) of Rule 3.3 no longer exists.

[7] Currently, Floor Brokers, Market-Makers (which includes DPM Designees, FLEX Appointed Market-Makers and FLEX Qualified Market-Makers), and Proprietary Traders applying pursuant to Rule 3.9 are subject to the TPH Orientation and TPH Exam.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

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. In addition, the Exchange believes that the proposed rule change is consistent with Section 6(c)(3)(B) of the Act,[10] which authorizes exchanges to prescribe standards of training, experience and competence for persons associated with exchange members, and gives exchanges the authority to bar a natural person from becoming a member or a person associated with a member, if the person does not meet the standards of training, experience and competence prescribed in the rules of the exchange.

In particular, the Exchange believes eliminating from its rules a list of trading functions individual TPHs and TPH organizations may be approved to engage in is not a substantive change as it does not affect any rights or obligations of TPHs. Rather, the Exchange merely no longer wishes to maintain Rules 3.2(b) and 3.3(b) and notes it is not required to do so. As noted above, several other Exchanges similarly do not maintain any provisions similar to current Rules 3.2(b) and 3.3(b), including its affiliate Exchanges. Accordingly, the proposed rule change will also provide further harmonization across its affiliated exchanges with respect to its registration rules, which may alleviate potential confusion.

Next, the Exchange notes that under Section 6(c)(3)(B) of the Act, the Exchange is authorized to prescribe standards of training, experience and competence for persons associated with exchange members. The Exchange believes the standards of training, experience and competence it has prescribed under its rules, not including the TPH Orientation and Exam are, on their own, an adequate prescription of training, experience and competence. Indeed, the Exchange believes the requirements related to training, experience and competence currently set forth under rules 3.6A, along with continuing education requirements set forth under Rule 9.3A, are designed to help ensure professionalism among market participants, prevent fraudulent and manipulative practices, and promote just and equitable principles of trade. Moreover, the Exchange believes the prescribed qualification exams required under Rule 3.6A align with the various trading functions and associated tasks that would be performed by a TPH applicant currently subject to the TPH Exam and tests knowledge of the most current laws, rules, regulations and skills relevant to the respective functions and associated tasks. The Exchange therefore believes that any TPH applicant that can satisfy such requirements has demonstrated that he or she has attained a sufficient level of competence and knowledge to participate on the Exchange. In sum, the Exchange has determined that the requisite knowledge necessary to participate on the Exchange can be assessed adequately by the qualification examinations prescribed under Rule 3.6A and that a TPH Orientation and Exam requirement provides no material improvements to the qualification process. Accordingly, the Exchange believes requiring such individuals to also complete the TPH Orientation and take the TPH Exam is redundant and unnecessary. Furthermore, the Exchange believes that it is in the interests of all market participants to provide consistent qualification and registration requirements across markets and notes that its affiliated markets do not have any exchange-specific testing requirements. The Exchange lastly notes that there is no requirement to develop or maintain an exchange-developed test for member applicants.

*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. Particularly, the Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes apply to all TPH applicants. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change only affects those applying for membership to Cboe Options. To the extent that the proposed change makes Cboe Options a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options market participants. Lastly, the Exchange notes that it believes the proposed changes will reduce the regulatory burden placed on market participants engaged in trading activities by eliminating a redundant and unnecessary exam. Indeed, the proposed rule change will provide further harmonization of registration requirements across various markets, including its affiliates, which will reduce burdens on competition by removing impediments to participation in the national market system and promoting competition among participants across the multiple national securities exchanges.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(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[11] and Rule 19b–4(f)(6)[12] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[13] 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:

[10] 15 U.S.C. 78f(c)(3)(B).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(2)(B).

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2019–029 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to the Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2019–029. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2019–029 and should be submitted on or before July 5, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–12450 Filed 6–12–19; 8:45 am]

**BILLING CODE 8011–01–P**

[14] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86062; File No. SR–NYSEARCA–2019–41]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Commentary .02 to Rule 6.72–O in Order To Extend the Penny Pilot in Options Classes in Certain Issues

June 7, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 30, 2019, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .02 to Rule 6.72–O in order to extend the Penny Pilot in options classes in certain issues (''Pilot Program'') previously approved by the Securities and Exchange Commission (''Commission'') through December 31, 2019. The Pilot Program is currently scheduled to expire on June 30, 2019. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[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 hereby proposes to amend Commentary .02 to Rule 6.72–O to extend the time period of the Pilot Program,[4] which is currently scheduled to expire on June 30, 2019, through December 31. 2019. The Exchange believes that the proposed extension would allow for further analysis of the Pilot Program and a determination of how the Pilot Program should be structured in the future.

This filing does not propose any substantive changes to the Pilot Program: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [5] of the Act, in general, and furthers the objectives of Section 6(b)(5),[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

In particular, the proposed rule change, which extends the Penny Pilot Program for six months, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it. Accordingly, the Exchange believes that the proposal is consistent with the Act because it would allow the Exchange to extend the Pilot Program prior to its expiration on June 30, 2019. The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of an existing program that operates on a pilot basis.

[4] *See* Exchange Act Release No. 84873 (December 19, 2018) 83 FR 66798 (December 27, 2018) (SR–NYSEArca–2018–96).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

The Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants.

The proposal to extend the Pilot Program is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, by allowing the Exchange and the Commission additional time to analyze the impact of the Pilot Program while also allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

*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. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how this Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot Program is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot Program will allow for continued competition between Exchange market participants trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

*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 [7] and Rule 19b–4(f)(6) thereunder.[8] 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.[9]

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) [10] 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–NYSEARCA–2019–41 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–2019–41. 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–2019–41 and should be submitted on or before July 5, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–12447 Filed 6–12–19; 8:45 am]

**BILLING CODE 8011–01–P**

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

[9] 15 U.S.C. 78s(b)(3)(A)(iii). Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that the Exchange satisfied this requirement.

[10] 15 U.S.C. 78s(b)(2)(B).

[11] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Ombudsman Matter Management System OMB Control No. 3235–0748, SEC File No. 270–797

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'' or ''SEC'') is soliciting comments on the collection of

information summarized below. The Commission plans to submit this renewal request for the collection of information to the Office of Management and Budget for approval.

In 2016, at the time of the original request for the collection of information, members of the public who contacted the Ombudsman for assistance did so by traditional mail, electronic mail, telephone, and facsimile. To make it easier for retail investors and others to contact the Ombudsman electronically, the Commission developed the Ombudsman Matter Management System (''OMMS''), a new, electronic data collection system for the receipt, collection and analysis of inquiries, complaints, and recommendations from retail investors directed to the SEC Ombudsman and the Office of the Investor Advocate. The Commission invites comment on OMMS.

OMMS was launched for internal use by SEC staff in 2017. Through OMMS, members of the public may request assistance from the Ombudsman and staff using a web-based form (the ''OMMS Form'') tailored to gather information about matters within the scope of the Ombudsman's function and streamline the inquiry and response process. The OMMS Form, which was made available to the public for use in September 2017, facilitates communication with the Ombudsman via an electronic series of basic questions with user-friendly and mobile-friendly response features such as radio buttons, drop-down menu responses, pop-up explanation bubbles, web page links, fillable narrative text fields, and document upload options. In addition, the OMMS Form incorporates functionality that, depending upon certain responses, pre-populates specific fields, and prompts the user to provide additional information. By eliciting specific information from the user, the OMMS Form facilitates communication between the user and the Ombudsman, reduces response and resolution times, and maximizes Ombudsman staff resources available for recording, processing, and responding to matters. The requested information collection is voluntary and does not change the contact methods currently available.

The OMMS Form is publicly available through the Commission's website, *https://www.sec.gov.*

The Commission estimates that the total reporting burden for using the OMMS Form will be 275 hours. The calculation of this estimate depends on how many members of the public use the form each year and the estimated time it takes to complete the form: 550 respondents × 30 minutes per submission = 275 burden hours. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms.

The total estimated one-time cost to the federal government of creating OMMS and the OMMS Form was $400,000. During the three-year period covered by our prior Paperwork Reduction Act submission in 2016, the startup costs were fully expensed and are therefore not included in the calculation for this renewal.

An agency 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 control number.

Written comments are invited on all aspects of this proposed information collection renewal request, in particular: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on users, including through the use of automated collection techniques or other forms of information technology.

Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication. Please direct your written comments to Charles Riddle, Acting Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: June 10, 2019.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–12515 Filed 6–12–19; 8:45 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 10:30 a.m. on Monday, June 17, 2019.

**PLACE:** The meeting will be held at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

**STATUS:** This meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:** Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topic:

Institution and settlement of administrative proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

**CONTACT PERSON FOR MORE INFORMATION:** For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: June 10, 2019.

**Vanessa A. Countryman,**

*Acting Secretary.*

[FR Doc. 2019–12551 Filed 6–11–19; 11:15 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86068; File No. SR–CboeEDGX–2019–009]**

### Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Withdrawal of Proposed Rule Change, as Modified by Amendment No. 1, To Adopt Rule 21.21 (Solicitation Auction Mechanism)

June 7, 2019.

On February 21, 2019, Cboe EDGX Exchange, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities

Exchange Act of 1934 [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt Rule 21.21, the Solicitation Auction Mechanism, a solicited order mechanism for larger-sized orders. The proposed rule change was published for comment in the **Federal Register** on March 12, 2019.[3] On April 23, 2019, the Exchange filed Amendment No. 1 to the proposed rule change.[4] On April 26, 2019, pursuant to Section 19(b)(2) of the Act,[5] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[6] The Commission received no comments on the proposal. On June 7, 2019, the Exchange withdrew the proposed rule change (SR–CboeEDGX–2019–009).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–12453 Filed 6–12–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 85253 (March 6, 2019), 84 FR 8921.

[4] Amendment No. 1 revised the proposal to (1) correct minor technical errors in the description of the proposed rule change; (2) remove an inadvertent description of an amendment to Exchange Rule 22.12, which the Exchange does not propose to amend in the proposal; and (3) update the Exchange's description of the proposed rule change's consistency with Section 11(a) of the Act. Amendment No. 1 is available at *https://www.sec.gov/comments/sr-cboeedgx-2019-009/srcboeedgx2019009-5405908-184490.pdf.*

[5] 15 U.S.C. 78s(b)(2).

[6] *See* Securities Exchange Act Release No. 85734, 84 FR 18907 (May 2, 2019). The Commission designated June 10, 2019 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

[7] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86067; File No. SR–NASDAQ–2019–017]**

### Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of Longer Period for Commission Action on a Proposed Rule Change To Adopt Additional Requirements for Listings in Connection With an Offering Under Regulation A of the Securities Act

June 7, 2019.

On April 5, 2019, The Nasdaq Stock Market LLC (''Nasdaq'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt a new initial listing requirement for any company applying to list on the Exchange in connection with an offering under Regulation A [3] of the Securities Act of 1933.[4] The proposed rule change was published for comment in the **Federal Register** on April 24, 2019.[5] The Commission received one comment on the proposed rule change.[6]

Section 19(b)(2) of the Act [7] provides that, within 45 days of the publication of the notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is June 8, 2019. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[8] designates July 23, 2019, as the date by which the Commission should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change (File No. SR–NASDAQ–2019–017).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–12452 Filed 6–12–19; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 230.251–230.263.

[4] 15 U.S.C. 77a *et seq.*

[5] *See* Securities Exchange Act Release No. 85687 (April 18, 2019), 84 FR 17224 (April 24, 2019).

[6] *See* Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors, dated May 2, 2019, available at *https://www.sec.gov/comments/sr-nasdaq-2019-017/srnasdaq2019017-5441017-184816.pdf.*

[7] 15 U.S.C. 78s(b)(2).

[8] *Id.*

[9] 17 CFR 200.30–3(a)(31).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86063; File No. SR–GEMX–2019–06]**

### Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Rules Governing the Give Up of a Clearing Member by a Member on Exchange Transactions

June 7, 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 24, 2019, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules governing the give up of a Clearing Member [3] by a Member on Exchange transactions.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqgemx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Clearing Member'' means a Member that is self-clearing or an Electronic Access Member that clears Exchange Transactions for other Members of the Exchange. *See* Rule 100(a)(11).

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend its requirements in Rule 707 related to the give up of a Clearing Member by a Member on Exchange transactions. This proposed rule change is substantially similar [4] to a recently-approved rule change by the Exchange's affiliate, Nasdaq PHLX LLC (''Phlx''),[5] and serves to align the rules of Phlx and the Exchange.[6]

By way of background, to enter transactions on the Exchange, a Member must either be a Clearing Member or must have a Clearing Member agree to accept financial responsibility for all of its transactions. In particular, Rule 707 currently provides that a Member must give up the name of the Clearing Member through whom the transaction will be cleared. Rule 712(b) provides, in relevant part, that every Clearing Member shall be responsible for the clearance of Exchange transactions of such Clearing Member and of each Member who gives up such Clearing Member's name pursuant to a letter of authorization, letter of guarantee or other authorization given by such Clearing Member to such Member, which authorization must be submitted to the Exchange. Additionally Rule 808(a) provides that no Market Maker (*i.e.,* Primary Market Makers and Competitive Market Makers) shall make any transactions on the Exchange unless a Letter of Guarantee has been issued for such Member by a Clearing Member and filed with the Exchange.[7]

Recently, certain Clearing Members, in conjunction with the Securities Industry and Financial Markets Association (''SIFMA''), expressed concerns related to the process by which executing brokers on U.S. options exchanges (''Exchanges'') are allowed to designate or 'give up' a clearing firm for purposes of clearing particular transactions. The SIFMA-affiliated Clearing Members have recently identified the current give up process as a significant source of risk for clearing firms, and subsequently requested that the Exchanges alleviate this risk by amending Exchange rules governing the give up process.[8]

Proposed Rule Change

Based on the above, the Exchange now seeks to amend its rules regarding the current give up process in order to allow a Clearing Member to opt in, at The Options Clearing Corporation (''OCC'') clearing number level, to a feature that, if enabled by the Clearing Member, will allow the Clearing Member to specify which Members are authorized to give up that OCC clearing number. Accordingly, Rule 707 will be retitled as ''Authorization to Give Up,'' and the current rule text will be replaced by new language. Specifically, proposed Rule 707 will provide that for each transaction in which a Member participates, the Member may indicate, at the time of the trade or through post trade allocation, any OCC number of a Clearing Member through which a transaction will be cleared (''Give Up''), provided the Clearing Member has not elected to ''Opt In,'' as defined in paragraph (b) of the proposed Rule, and restrict one or more of its OCC number(s) (''Restricted OCC Number''). A Member may Give Up a Restricted OCC Number provided the Member has written authorization as described in paragraph (b)(ii) (''Authorized Member'').

Proposed Rule 707(b) provides that Clearing Members may request the Exchange restrict one or more of their OCC clearing numbers (''Opt In'') as described in subparagraph (b)(i) of Rule 707. If a Clearing Member Opts In, the Exchange will require written authorization from the Clearing Member permitting a Member to Give Up a Clearing Member's Restricted OCC Number. An Opt In would remain in effect until the Clearing Member terminates the Opt In as described in subparagraph (iii). If a Clearing Member does not Opt In, that Clearing Member's OCC number may be subject to Give Up by any Member.

Proposed Rule 707(b)(i) will set forth the process by which a Clearing Member may Opt In. Specifically, a Clearing Member may Opt In by sending a completed ''Clearing Member Restriction Form'' listing all Restricted OCC Numbers and Authorized Members.[9] A copy of the proposed form is attached in Exhibit 3[sic]. A Clearing Member may elect to restrict one or more OCC clearing numbers that are registered in its name at OCC. The Clearing Member would be required to submit the Clearing Member Restriction Form to the Exchange's Membership Department as described on the form. Once submitted, the Exchange requires ninety days before a Restricted OCC Number is effective within the System. This time period is to provide adequate time for the member users of that Restricted OCC Number who are not initially specified by the Clearing Member as Authorized Members to obtain the required written authorization from the Clearing Member for that Restricted OCC Number. Such member users would still be able to Give Up that Restricted OCC Number during this ninety day period (*i.e.,* until the number becomes restricted within the System).

Proposed Rule 707(b)(ii) will set forth the process for Members to Give Up a Clearing Member's Restricted OCC Number. Specifically, a Member desiring to Give Up a Restricted OCC Number must become an Authorized Member.[10] The Clearing Member will be required to authorize a Member as described in subparagraph (i) or (iii) of Rule 707(b) (*i.e.,* through a Clearing Member Restriction Form), unless the Restricted OCC Number is already subject to a Letter of Guarantee that the Member is a party to, as set forth in Rule 707(d).

Pursuant to proposed Rule 707(b)(iii), a Clearing Member may amend the list of its Authorized Members or Restricted OCC Numbers by submitting a new Clearing Member Restriction Form to the Exchange's Membership Department indicating the amendment as described on the form. Once a Restricted OCC Number is effective within the System pursuant to Rule 707(b)(i), the Exchange may permit the Clearing Member to authorize, or remove authorization for, a Member to Give Up the Restricted OCC Number intra-day only in unusual circumstances, and on the next business day in all regular circumstances. The Exchange will promptly notify the

[4] Specifically, GEMX is not adopting sections (c)(i) and (c)(ii) of Phlx Rule 1037, which relate to how the Phlx trading system will enforce unauthorized Give Ups for floor trades and electronic trades, respectively. With respect to electronic trades, Phlx will block the order from the outset whereas GEMX will automatically default to the Member's guarantor. *See* proposed GEMX Rule 707(c).

[5] *See* Securities Exchange Act Release No. 85136 (February 14, 2019) (SR–Phlx–2018–72) (Approval Order).

[6] The other Nasdaq, Inc.-owned options markets, Nasdaq BX, Nasdaq ISE, Nasdaq MRX, and The Nasdaq Options Market (collectively, ''Nasdaq HoldCo Exchanges''), will file similar rule change proposals based on the Phlx filing.

[7] Furthermore, the Exchange previously issued guidance on designating Give Ups in Regulatory Information Circular 2013–02. This rule change supersedes the Exchange's previous interpretation.

[8] *See* note 5 above.

[9] This form will be available on the Exchange's website. The Exchange will also maintain, on its website, a list of the Restricted OCC Numbers, which will be updated on a regular basis, and the Clearing Member's contact information to assist Members (to the extent they are not already Authorized Members) with requesting authorization for a Restricted OCC Number. The Exchange may utilize additional means to inform its members of such updates on a periodic basis.

[10] The Exchange will develop procedures for notifying Members that they are authorized or unauthorized by Clearing Members.

Members if they are no longer authorized to Give Up a Clearing Member's Restricted OCC Number. If a Clearing Member removes a Restricted OCC Number, any Member may Give Up that OCC clearing number once the removal has become effective on or before the next business day.

Proposed Rule 707(c) will provide that the System will not allow an unauthorized Member to Give Up a Restricted OCC Number. Specifically, if an unauthorized Give Up with a Restricted OCC Number is submitted to the System, the System will process that transaction using the Member's default OCC clearing number.

Furthermore, the Exchange proposes to adopt paragraph (d) to Rule 707 to provide, as is the case today, that a clearing arrangement subject to a Letter of Guarantee would immediately permit the Give Up of a Restricted OCC Number by the Member that is party to the arrangement. Since there is an OCC clearing arrangement already established in this case, no further action is needed on the part of the Clearing Member or the Member.

The Exchange also proposes to adopt paragraph (e) to Rule 707 to provide that an intentional misuse of this Rule is impermissible, and may be treated as a violation of Rule 400, titled ''Just and Equitable Principles of Trade,'' or Rule 401, titled ''Adherence to Law.'' This language will make clear that the Exchange will regulate an intentional misuse of this Rule (*e.g.,* sending orders to a Clearing Member's OCC account without the Clearing Member's consent), and that such behavior would be a violation of Exchange rules.

In light of the foregoing proposal, the Exchange also proposes to amend Rule 712(b), which addresses the Clearing Member's financial responsibility for the Exchange transactions of Members who give up the name of such Clearing Member pursuant to, for example, a letter of guarantee. In particular, the Exchange proposes to add that every Clearing Member shall be responsible for the clearance of the Exchange transactions of each Member who gives up such Clearing Member's name pursuant to a written authorization to become an Authorized Member under Rule 707. Lastly, the Exchange proposes the following technical changes in the same provision: (1) To capitalize Letter of Guarantee for consistency throughout its Rulebook, (2) to delete obsolete references to the letter of clearing authorization,[11] and (3) to replace the phrase ''letter of clearing authorization or letter of guarantee'' with ''authorization'' to track the foregoing changes.

Implementation

The Exchange proposes to implement the proposed rule change no later than by the end of Q3 2019. The Exchange will announce the implementation date to its Members in an Options Trader Alert.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Particularly, as discussed above, several clearing firms affiliated with SIFMA have recently expressed concerns relating to the current give up process, which permits Members to identify any Clearing Member as a designated give up for purposes of clearing particular transactions, and have identified the current give up process (*i.e.,* a process that lacks authorization) as a significant source of risk for clearing firms.

The Exchange believes that the proposed changes to Rule 707 help alleviate this risk by enabling Clearing Members to 'Opt In' to restrict one or more of its OCC clearing numbers (*i.e.,* Restricted OCC Numbers), and to specify which Authorized Members may Give Up those Restricted OCC Numbers. As described above, all other Members would be required to receive written authorization from the Clearing Member before they can Give Up that Clearing Member's Restricted OCC Number. The Exchange believes that this authorization provides proper safeguards and protections for Clearing Members as it provides controls for Clearing Members to restrict access to their OCC clearing numbers, allowing access only to those Authorized Members upon their request. The Exchange also believes that its proposed Clearing Member Restriction Form allows the Exchange to receive in a uniform fashion, written and transparent authorization from Clearing Members, which ensures seamless administration of the Rule.

The Exchange believes that the proposed Opt In process strikes the right balance between the various views and interests across the industry. For example, although the proposed rule would require Members (other than Authorized Members) to seek authorization from Clearing Members in order to have the ability to give them up, each Member will still have the ability to Give Up a Restricted OCC Number that is subject to a Letter of Guarantee without obtaining any further authorization if that Member is party to that arrangement. The Exchange also notes that to the extent the executing Member has a clearing arrangement with a Clearing Member (*i.e.,* through a Letter of Guarantee), a trade can be assigned to the executing Member's guarantor. Accordingly, the Exchange believes that the proposed rule change is reasonable and continues to provide certainty that a Clearing Member would be responsible for a trade, which protects investors and the public interest. Finally, the Exchange believes that adopting paragraph (e) of Rule 707 will make clear that an intentional misuse of this Rule (*e.g.,* sending orders to a Clearing Member's OCC account without the Clearing Member's consent) will be a violation of the Exchange's rules, and that such behavior would subject a Member to disciplinary action.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose an unnecessary burden on intramarket competition because it would apply equally to all similarly situated Members. The Exchange also notes that, should the proposed changes make GEMX more attractive for trading, market participants trading on other exchanges can always elect to become Members on GEMX to take advantage of the trading opportunities.

Furthermore, the proposed rule change does not address any competitive issues and ultimately, the target of the Exchange's proposal is to reduce risk for Clearing Members under the current give up model. Clearing firms make financial decisions based on risk and reward, and while it is generally in their beneficial interest to clear transactions for market

[11] GEMX recently updated its forms to combine the Electronic Access Member letter of clearing authorization and Market Maker guarantee into one Letter of Guarantee applicable to all Members.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

participants in order to generate profit, it is the Exchange's understanding from SIFMA and clearing firms that the current process can create significant risk when the clearing firm can be given up on any market participant's transaction, even where there is no prior customer relationship or authorization for that designated transaction.

In the absence of a mechanism that governs a market participant's use of a Clearing Member's services, the Exchange's proposal may indirectly facilitate the ability of a Clearing Member to manage their existing customer relationships while continuing to allow market participant choice in broker execution services. While Clearing Members may compete with executing brokers for order flow, the Exchange does not believe this proposal imposes an undue burden on competition. Rather, the Exchange believes that the proposed rule change balances the need for Clearing Members to manage risks and allows them to address outlier behavior from executing brokers while still allowing freedom of choice to select an executing broker.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [14] and subparagraph (f)(6) of Rule 19b–4 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 shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–GEMX–2019–06 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–GEMX–2019–06. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–GEMX–2019–06 and should be submitted on or before July 5, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–12448 Filed 6–12–19; 8:45 am]

**BILLING CODE 8011–01–P**

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[16] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86066; File No. SR–C2–2019–015]**

## Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend the Fat Finger Check for Simple Orders in Rule 6.14

June 7, 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 June 6, 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 the fat finger check for with respect to simple orders in Rule 6.14. The text of the proposed rule change is provided below.

(additions are italicized; deletions are [bracketed])

* * * * *

**Rules of Cboe C2 Exchange, Inc.**

* * * * *

**Rule 6.14. Order and Quote Price Protection Mechanisms and Risk Controls**

(a)–(b) No change.

(c) *All Orders.*

(1) *Limit Order Fat Finger Check.* If a User submits a buy (sell) limit order to the System with a price that is more than a buffer

[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).

amount above (below) the NBO (NBB) for simple orders or the SNBO (SNBB) for complex orders, the System cancels or rejects the order. The Exchange determines a default buffer amount; however, a User may establish a higher or lower amount than the Exchange default.

(A) For simple *buy (sell)* orders, the Exchange may determine to apply this check on a class-by-class basis and not apply it to limit orders entered prior to the conclusion of the *RTH* [O]*o*pening *auction* [P]*p*rocess. If the check applies prior to the conclusion of the *RTH* [O]*o*pening *auction* [P]*p*rocess, it uses [the midpoint of the prior trading day's closing NBBO (prior to 9:30 a.m.) or]*(i)* the last disseminated NBBO *on that trading day, or (ii) the midpoint of the prior trading day's closing NBBO, if no NBBO has been disseminated on that trading day*[(if there is one, after 9:30 a.m.)]. The Exchange or User, as applicable, may establish a different default amount prior to the conclusion of the *RTH* [O]*o*pening *auction* [P]*p*rocess than it does after trading is open. If the check applies prior to the conclusion of the O]*RTH o*pening *auction* [P]*p*rocess, it does not apply (i) if there is a corporate action impacting the corporate stock price, (ii) if there is no NBBO from the prior trading day, (iii) to orders with origin code M or N, or (iv) to GTC and GTD orders that reenter the Book from the prior trading *session* [day].

* * * * *

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 amends the fat finger check with respect to simple orders in Rule 6.14. Current Rule 6.14(c)(1) states if a User submits a buy (sell) limit order to the System with a price that is more than a buffer amount above (below) the national best offer (''NBO'') (national best bid (''NBB'')) for simple orders, the System cancels or rejects the order.[5] Under current Rule 6.14(c)(1)(A) for simple orders, the Exchange may determine to apply this check on a class-by-class basis and not apply it to limit orders entered prior to the conclusion of the opening auction process. If the check applies prior to the conclusion of the opening auction process, it uses the midpoint of the prior trading day's closing NBBO (prior to 9:30 a.m.) or the last disseminated NBBO (if there is one, after 9:30 a.m.).[6]

The Exchange recently adopted a global trading hours (''GTH'') trading session, which will occur from 8:30 to 9:15 a.m. Eastern Time, which the Exchange intends to implement on June 17, 2019.[7] For classes that trade during the GTH trading session, there may be an NBBO disseminated prior to 9:30 a.m., as well as a GTH opening auction process. Therefore, the Exchange proposes to update the fat finger check for simple orders to reflect a GTH trading session. Because the GTH and regular trading hours (''RTH'') trading sessions will each have an opening auction process,[8] the Exchange now proposes to amend Rule 6.14(c)(1)(A) to specify that if the check applies prior to the conclusion of the RTH opening auction process (therefore, from the beginning of the GTH opening process[9] through the RTH opening process), it uses the last disseminated NBBO during that trading day (which accounts for NBBOs disseminated during GTH),[10] or the midpoint of the prior trading day's closing NBBO, if no NBBO has been disseminated during that trading day. The Exchange notes that it is deleting the language that refers to using the prior trading day's closing NBBO if the check applies prior to 9:30 a.m., as well as language that refers to an NBBO after 9:30 a.m., to accommodate the new GTH session. For example, if it is 9:25 a.m. the check would use the last disseminated NBBO from the GTH session (*i.e.,* on that trading day), and, if no NBBO has been disseminated on that trading day then the System would pull the midpoint of the prior trading day's closing NBBO, as it currently does today. It also proposes to amend Rule 6.14(c)(1)(A) to state that if the check applies prior to the conclusion of the RTH opening auction process, it does not apply to good-til-cancelled (''GTC'') and good-til-date (''GTD'') orders that reenter the Book from the prior trading session. This proposed change accounts for a prior trading session instead of the trading day because the Exchange will use the same Book for all trading sessions, and thus any GTC or GTD orders that do not trade during GTH may become eligible for trading during RTH.

The Exchange notes that the proposed change is substantially similar to the current rule, and merely proposes to update language in connection with the implementation of the GTH trading session, specifying to which opening auction process the check under Rule 6.14(c)(1)(A) will apply, and accounting for the fact that there may be an NBBO disseminated prior to 9:30 a.m. for classes that will trade during the GTH trading session.

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.[11] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[12] 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

[5] The Exchange determines a default buffer amount; however, a User may establish a higher or lower amount than the Exchange default.

[6] Current Rule 6.14(c)(1)(A) also states that the Exchange or User, as applicable, may establish a different default amount prior to the conclusion of the opening auction process than it does after trading is open. If the check applies prior to the conclusion of the Opening Process, it does not apply (i) if there is a corporate action impacting the corporate stock price, (ii) if there is no NBBO from the prior trading day, (iii) to orders with origin code M (Market-Maker) or N (away market-maker), or (iv) to good-til-cancelled (''GTC'') or good-til-day (''GTD'') orders that reenter the Book from the prior trading day.

[7] *See* Securities Exchange Act Release No. 85788 (May 6, 2019), 84 FR 20673 (May 10, 2019) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Opening Process and Add a Global Trading Hours Session for DJX Options) (SR–C2–2019–009).

[8] *See* Rule 6.11 which provides for the opening auction processes for GTH and RTH.

[9] The Exchange notes this includes the queuing period as defined under Rule 6.11 which provides for the opening auction process.

[10] *See* Rule 1.1 which states that a trading day includes both trading sessions on that day. The Exchange also notes that it is amending the term ''orders'' to state ''buy (sell) orders'' in Rule 6.14(c)(1)(A) to mirror the same language used in Rule 6.14(c)(1), as well as the term ''Opening Process'' to ''opening auction process'' which is consistent with the verbiage used throughout Rule 6.11 (Opening Auction Process).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

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) [13] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that by updating the fat finger check for simple orders to account for the recently adopted GTH trading session, the proposed rule change serves to remove impediments to and perfect the mechanism of a free and open market and a national market system. As described above, the proposed change is substantially similar to the way in which the current fat finger check for simple orders functions, and merely accounts for the fact that there will be two trading sessions on the Exchange, each with an opening auction process and one of which will occur, and may disseminate an NBBO, before 9:30 a.m. Therefore, the Exchange believes that by amending rule language to specify that the fat finger check under Rule 6.14(c)(1)(A) will apply prior to the conclusion of the RTH opening auction process and by updating language to reflect the earlier GTH session time and potential NBBO dissemination during that session in connection with the fat finger check, it will remove impediments to and perfect the mechanism of a free and open market, thereby protecting investors, by increasing transparency of the Exchange's fat finger price protection mechanism as it relates to the earlier GTH trading session.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues, but rather to update a current price protection mechanism in connection with the addition of a GTH trading session. The Exchange does not believe that the proposed rule change to update the fat finger check as it relates to the GTH trading session will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it will apply in the same manner to all Users' limit orders prior to the conclusion of the RTH opening auction process. The Exchange notes that a User may choose to establish a different default amount prior to the conclusion of the RTH opening auction process. Furthermore, the Exchange does not believe that the proposed change will impose any burden on intermarket competition that that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change merely updates a price protection mechanism already in place on the Exchange and applicable only to trading on the Exchange.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) [14] of the Act and Rule 19b–4(f)(6) [15] thereunder. Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [16] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [17] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it is substantially similar to the way in which the current fat finger check for simple orders functions, and merely accounts for the fact that there will be two trading sessions on the Exchange (each with an opening auction process and one of which will occur, and may disseminate an NBBO, before 9:30 a.m.), and does not raise any new or novel issues. For this reason, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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–C2–2019–015 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–C2–2019–015. 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

[13] *Id.*

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–C2–2019–015 and should be submitted on or before July 5, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–12451 Filed 6–12–19; 8:45 am]

**BILLING CODE 8011–01–P**

[19] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86064; File No. SR–MRX–2019–10]**

## Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Rules Governing the Give Up of a Clearing Member by a Member on Exchange Transactions

June 7, 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 24, 2019, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to a proposal to amend its rules governing the give up of a Clearing Member[3] by a Member on Exchange transactions.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqmrx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend its requirements in Rule 707 related to the give up of a Clearing Member by a Member on Exchange transactions. This proposed rule change is substantially similar[4] to a recently-approved rule change by the Exchange's affiliate, Nasdaq PHLX LLC (''Phlx''),[5] and serves to align the rules of Phlx and the Exchange.[6]

By way of background, to enter transactions on the Exchange, a Member must either be a Clearing Member or must have a Clearing Member agree to accept financial responsibility for all of its transactions. In particular, Rule 707 currently provides that a Member must give up the name of the Clearing Member through whom the transaction will be cleared. Rule 712(b) provides, in relevant part, that every Clearing Member shall be responsible for the clearance of Exchange transactions of such Clearing Member and of each Member who gives up such Clearing Member's name pursuant to a letter of authorization, letter of guarantee or other authorization given by such Clearing Member to such Member, which authorization must be submitted to the Exchange. Additionally Rule 808(a) provides that no Market Maker (*i.e.,* Primary Market Makers and Competitive Market Makers) shall make any transactions on the Exchange unless a Letter of Guarantee has been issued for such Member by a Clearing Member and filed with the Exchange.[7]

Recently, certain Clearing Members, in conjunction with the Securities Industry and Financial Markets Association (''SIFMA''), expressed concerns related to the process by which executing brokers on U.S. options exchanges (''Exchanges'') are allowed to designate or 'give up' a clearing firm for purposes of clearing particular transactions. The SIFMA-affiliated Clearing Members have recently identified the current give up process as a significant source of risk for clearing firms, and subsequently requested that the Exchanges alleviate this risk by amending Exchange rules governing the give up process.[8]

Proposed Rule Change

Based on the above, the Exchange now seeks to amend its rules regarding the current give up process in order to allow a Clearing Member to opt in, at The Options Clearing Corporation (''OCC'') clearing number level, to a feature that, if enabled by the Clearing Member, will allow the Clearing Member to specify which Members are authorized to give up that OCC clearing number. Accordingly, Rule 707 will be retitled as ''Authorization to Give Up,'' and the current rule text will be replaced by new language. Specifically, proposed Rule 707 will provide that for each transaction in which a Member participates, the Member may indicate, at the time of the trade or through post trade allocation, any OCC number of a Clearing Member through which a transaction will be cleared (''Give Up''), provided the Clearing Member has not elected to ''Opt In,'' as defined in paragraph (b) of the proposed Rule, and restrict one or more of its OCC number(s) (''Restricted OCC Number''). A Member may Give Up a Restricted

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Clearing Member'' means a Member that is self-clearing or an Electronic Access Member that clears Exchange Transactions for other Members of the Exchange. *See* Rule 100(a)(11).

[4] Specifically, MRX is not adopting sections (c)(i) and (c)(ii) of Phlx Rule 1037, which relate to how the Phlx trading system will enforce unauthorized Give Ups for floor trades and electronic trades, respectively. With respect to electronic trades, Phlx will block the order from the outset whereas MRX will automatically default to the Member's guarantor. *See* proposed MRX Rule 707(c).

[5] *See* Securities Exchange Act Release No. 85136 (February 14, 2019) (SR–Phlx–2018–72) (Approval Order).

[6] The other Nasdaq, Inc.-owned options markets, Nasdaq BX, Nasdaq ISE, Nasdaq GEMX, and The Nasdaq Options Market (collectively, ''Nasdaq HoldCo Exchanges''), will file similar rule change proposals based on the Phlx filing.

[7] Furthermore, the Exchange previously issued guidance on designating Give Ups in Regulatory Information Circular 2016–001. This rule change supersedes the Exchange's previous interpretation.

[8] *See* note 5 above.

OCC Number provided the Member has written authorization as described in paragraph (b)(ii) (''Authorized Member'').

Proposed Rule 707(b) provides that Clearing Members may request the Exchange restrict one or more of their OCC clearing numbers (''Opt In'') as described in subparagraph (b)(i) of Rule 707. If a Clearing Member Opts In, the Exchange will require written authorization from the Clearing Member permitting a Member to Give Up a Clearing Member's Restricted OCC Number. An Opt In would remain in effect until the Clearing Member terminates the Opt In as described in subparagraph (iii). If a Clearing Member does not Opt In, that Clearing Member's OCC number may be subject to Give Up by any Member.

Proposed Rule 707(b)(i) will set forth the process by which a Clearing Member may Opt In. Specifically, a Clearing Member may Opt In by sending a completed ''Clearing Member Restriction Form'' listing all Restricted OCC Numbers and Authorized Members.[9] A copy of the proposed form is attached in Exhibit 3[sic]. A Clearing Member may elect to restrict one or more OCC clearing numbers that are registered in its name at OCC. The Clearing Member would be required to submit the Clearing Member Restriction Form to the Exchange's Membership Department as described on the form. Once submitted, the Exchange requires ninety days before a Restricted OCC Number is effective within the System. This time period is to provide adequate time for the member users of that Restricted OCC Number who are not initially specified by the Clearing Member as Authorized Members to obtain the required written authorization from the Clearing Member for that Restricted OCC Number. Such member users would still be able to Give Up that Restricted OCC Number during this ninety day period (*i.e.,* until the number becomes restricted within the System).

Proposed Rule 707(b)(ii) will set forth the process for Members to Give Up a Clearing Member's Restricted OCC Number. Specifically, a Member desiring to Give Up a Restricted OCC Number must become an Authorized Member.[10] The Clearing Member will be required to authorize a Member as described in subparagraph (i) or (iii) of Rule 707(b) (*i.e.,* through a Clearing Member Restriction Form), unless the Restricted OCC Number is already subject to a Letter of Guarantee that the Member is a party to, as set forth in Rule 707(d).

Pursuant to proposed Rule 707(b)(iii), a Clearing Member may amend the list of its Authorized Members or Restricted OCC Numbers by submitting a new Clearing Member Restriction Form to the Exchange's Membership Department indicating the amendment as described on the form. Once a Restricted OCC Number is effective within the System pursuant to Rule 707(b)(i), the Exchange may permit the Clearing Member to authorize, or remove authorization for, a Member to Give Up the Restricted OCC Number intra-day only in unusual circumstances, and on the next business day in all regular circumstances. The Exchange will promptly notify the Members if they are no longer authorized to Give Up a Clearing Member's Restricted OCC Number. If a Clearing Member removes a Restricted OCC Number, any Member may Give Up that OCC clearing number once the removal has become effective on or before the next business day.

Proposed Rule 707(c) will provide that the System will not allow an unauthorized Member to Give Up a Restricted OCC Number. Specifically, if an unauthorized Give Up with a Restricted OCC Number is submitted to the System, the System will process that transaction using the Member's default OCC clearing number.

Furthermore, the Exchange proposes to adopt paragraph (d) to Rule 707 to provide, as is the case today, that a clearing arrangement subject to a Letter of Guarantee would immediately permit the Give Up of a Restricted OCC Number by the Member that is party to the arrangement. Since there is an OCC clearing arrangement already established in this case, no further action is needed on the part of the Clearing Member or the Member.

The Exchange also proposes to adopt paragraph (e) to Rule 707 to provide that an intentional misuse of this Rule is impermissible, and may be treated as a violation of Rule 400, titled ''Just and Equitable Principles of Trade,'' or Rule 401, titled ''Adherence to Law.'' This language will make clear that the Exchange will regulate an intentional misuse of this Rule (*e.g.,* sending orders to a Clearing Member's OCC account without the Clearing Member's consent), and that such behavior would be a violation of Exchange rules.

In light of the foregoing proposal, the Exchange also proposes to amend Rule 712(b), which addresses the Clearing Member's financial responsibility for the Exchange transactions of Members who give up the name of such Clearing Member pursuant to, for example, a letter of guarantee. In particular, the Exchange proposes to add that every Clearing Member shall be responsible for the clearance of the Exchange transactions of each Member who gives up such Clearing Member's name pursuant to a written authorization to become an Authorized Member under Rule 707. Lastly, the Exchange proposes the following technical changes in the same provision: (1) To capitalize Letter of Guarantee for consistency throughout its Rulebook, (2) to delete obsolete references to the letter of clearing authorization,[11] and (3) to replace the phrase ''letter of clearing authorization or letter of guarantee'' with ''authorization'' to track the foregoing changes.

Implementation

The Exchange proposes to implement the proposed rule change no later than by the end of Q3 2019. The Exchange will announce the implementation date to its Members in an Options Trader Alert.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Particularly, as discussed above, several clearing firms affiliated with SIFMA have recently expressed concerns relating to the current give up process, which permits Members to identify any Clearing Member as a designated give up for purposes of clearing particular transactions, and have identified the current give up

[9] This form will be available on the Exchange's website. The Exchange will also maintain, on its website, a list of the Restricted OCC Numbers, which will be updated on a regular basis, and the Clearing Member's contact information to assist Members (to the extent they are not already Authorized Members) with requesting authorization for a Restricted OCC Number. The Exchange may utilize additional means to inform its members of such updates on a periodic basis.

[10] The Exchange will develop procedures for notifying Members that they are authorized or unauthorized by Clearing Members.

[11] MRX recently updated its forms to combine the Electronic Access Member letter of clearing authorization and Market Maker guarantee into one Letter of Guarantee applicable to all Members.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

process (*i.e.,* a process that lacks authorization) as a significant source of risk for clearing firms.

The Exchange believes that the proposed changes to Rule 707 help alleviate this risk by enabling Clearing Members to 'Opt In' to restrict one or more of its OCC clearing numbers (*i.e.,* Restricted OCC Numbers), and to specify which Authorized Members may Give Up those Restricted OCC Numbers. As described above, all other Members would be required to receive written authorization from the Clearing Member before they can Give Up that Clearing Member's Restricted OCC Number. The Exchange believes that this authorization provides proper safeguards and protections for Clearing Members as it provides controls for Clearing Members to restrict access to their OCC clearing numbers, allowing access only to those Authorized Members upon their request. The Exchange also believes that its proposed Clearing Member Restriction Form allows the Exchange to receive in a uniform fashion, written and transparent authorization from Clearing Members, which ensures seamless administration of the Rule.

The Exchange believes that the proposed Opt In process strikes the right balance between the various views and interests across the industry. For example, although the proposed rule would require Members (other than Authorized Members) to seek authorization from Clearing Members in order to have the ability to give them up, each Member will still have the ability to Give Up a Restricted OCC Number that is subject to a Letter of Guarantee without obtaining any further authorization if that Member is party to that arrangement. The Exchange also notes that to the extent the executing Member has a clearing arrangement with a Clearing Member (*i.e.,* through a Letter of Guarantee), a trade can be assigned to the executing Member's guarantor. Accordingly, the Exchange believes that the proposed rule change is reasonable and continues to provide certainty that a Clearing Member would be responsible for a trade, which protects investors and the public interest. Finally, the Exchange believes that adopting paragraph (e) of Rule 707 will make clear that an intentional misuse of this Rule (*e.g.,* sending orders to a Clearing Member's OCC account without the Clearing Member's consent) will be a violation of the Exchange's rules, and that such behavior would subject a Member to disciplinary action.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose an unnecessary burden on intramarket competition because it would apply equally to all similarly situated Members. The Exchange also notes that, should the proposed changes make MRX more attractive for trading, market participants trading on other exchanges can always elect to become Members on MRX to take advantage of the trading opportunities.

Furthermore, the proposed rule change does not address any competitive issues and ultimately, the target of the Exchange's proposal is to reduce risk for Clearing Members under the current give up model. Clearing firms make financial decisions based on risk and reward, and while it is generally in their beneficial interest to clear transactions for market participants in order to generate profit, it is the Exchange's understanding from SIFMA and clearing firms that the current process can create significant risk when the clearing firm can be given up on any market participant's transaction, even where there is no prior customer relationship or authorization for that designated transaction.

In the absence of a mechanism that governs a market participant's use of a Clearing Member's services, the Exchange's proposal may indirectly facilitate the ability of a Clearing Member to manage their existing customer relationships while continuing to allow market participant choice in broker execution services. While Clearing Members may compete with executing brokers for order flow, the Exchange does not believe this proposal imposes an undue burden on competition. Rather, the Exchange believes that the proposed rule change balances the need for Clearing Members to manage risks and allows them to address outlier behavior from executing brokers while still allowing freedom of choice to select an executing broker.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [14] and subparagraph (f)(6) of Rule 19b–4 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 shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MRX–2019–10 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MRX–2019–10. 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/*

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

*rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MRX–2019–10 and should be submitted on or before July 5, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–12449 Filed 6–12–19; 8:45 am]

**BILLING CODE 8011–01–P**

[16] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #15896 and #15897; NEBRASKA Disaster Number NE–00073]**

### Presidential Declaration Amendment of a Major Disaster for the State of Nebraska

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 5.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of Nebraska (FEMA–4420–DR), dated 03/21/2019.

*Incident:* Severe Winter Storm, Straight-line Winds, and Flooding.

*Incident Period:* 03/09/2019 through 04/01/2019.

**DATES:** Issued on 06/04/2019.

*Physical Loan Application Deadline Date:* 06/19/2019.

*Economic Injury (EIDL) Loan Application Deadline Date:* 12/23/2019.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for the State of Nebraska, dated 03/21/2019, is hereby amended to include the following areas as adversely affected by the disaster:

*Primary Counties (Physical Damage and Economic Injury Loans):* Holt

*Contiguous Counties (Economic Injury Loans Only):*

All counties contiguous to the county listed above have previously been declared.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

**Rafaela Monchek,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2019–12473 Filed 6–12–19; 8:45 am]

**BILLING CODE 8206–03–P**

## DEPARTMENT OF STATE

**[Public Notice 10793]**

### 60-Day Notice of Proposed Information Collection: Supplemental Questionnaire To Determine Identity for a U.S. Passport

**ACTION:** Notice of request for public comment.

**SUMMARY:** The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 60 days for public comment.

**DATES:** The Department will accept comments from the public up to August 12, 2019.

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

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov*. You can search for the document by entering ''Docket Number: DOS–2019–0020'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: PPTFormsOfficer@state.gov.*
- *Regular Mail:* Send written comments to: PPT Forms Officer, U.S. Department of State, CA/PPT/S/PMO, 44132 Mercure Cir, P.O. Box 1199, Sterling, VA 20166–1199.

**SUPPLEMENTARY INFORMATION:**

- *Title of Information Collection:* Supplemental Questionnaire to Determine Identity for a U.S. Passport.
- *OMB Control Number:* 1405–0215.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services (CA/PPT).
- *Form Number:* DS–5520.
- *Respondents:* United States Citizens and Nationals.
- *Estimated Number of Respondents:* 21,891.
- *Estimated Number of Responses:* 21,891.
- *Average Time per Response:* 45 minutes.
- *Total Estimated Burden Time:* 16,418 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to Obtain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

**Abstract of Proposed Collection**

The primary purpose for soliciting this information is to establish identity for a U.S. Passport Book or Passport Card. The information may also be used in connection with issuing other travel documents or evidence of citizenship, and in furtherance of the Secretary's responsibility for the protection of U.S. nationals abroad and to administer the passport program.

**Methodology**

The supplemental Questionnaire to Determine Identity for a U.S. Passport is used to supplement an existing passport application and solicits information relating to the respondent's identity that is needed prior to passport issuance. The form is only available from Department facilities and is not available on the Department's website.

**Barry J. Conway,**

*Acting Deputy Assistant Secretary for Passport Services.*

[FR Doc. 2019–12438 Filed 6–12–19; 8:45 am]

**BILLING CODE 4710–06–P**

## STATE JUSTICE INSTITUTE

### SJI Board of Directors Meeting, Notice

**AGENCY:** State Justice Institute.

**ACTION:** Notice of meeting.

**SUMMARY:** The SJI Board of Directors will be meeting on Monday, June 24, 2019 at 1:00 p.m. The meeting will be held at the Hilton Burlington in Burlington, Vermont. The purpose of this meeting is to consider grant applications for the 3rd quarter of FY 2019, and other business. All portions of this meeting are open to the public.

**ADDRESSES:** Hilton Burlington, 60 Battery Street, Burlington, VT 05401.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Mattiello, Executive Director, State Justice Institute, 11951 Freedom Drive, Suite 1020, Reston, VA 20190, 571–313–8843, *contact@sji.gov.*

**Jonathan D. Mattiello,**

*Executive Director.*

[FR Doc. 2019–12435 Filed 6–12–19; 8:45 am]

**BILLING CODE P**

## SUSQUEHANNA RIVER BASIN COMMISSION

### Projects Approved for Consumptive Uses of Water

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Notice.

**SUMMARY:** This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

**DATES:** May 1–31, 2019.

**ADDRESSES:** Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

**FOR FURTHER INFORMATION CONTACT:** Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

**SUPPLEMENTARY INFORMATION:** This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and § 806.22(f) for the time period specified above:

**Approvals by Rule Issued Under 18 CFR 806.22(e)**

1. Sunoco Pipeline, L.P.; Mariner East 2 Pipeline—Aughwick Creek; ABR–201905007; Shirley Township, Huntingdon County, Pa.; Consumptive Use of Up to 0.200 mgd; Approval Date: May 21, 2019.
2. Sunoco Pipeline, L.P.; Mariner East 2 Pipeline—Appalachian Trail and Norfolk Southern Railroad Crossing; ABR–201905008; Middlesex and Silver Spring Townships, Cumberland County, Pa.; Consumptive Use of Up to 0.144 mgd; Approval Date: May 22, 2019.

**Water Source Approvals Issued Under 18 CFR 806.22(f)(13)**

1. Chesapeake Appalachia, L.L.C.; Pad ID: Molly J 2; ABR–201905001; Monroe Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 6, 2019.
2. Beech Resources, LLC.; Pad ID: Premier Well Site; ABR–201905002; Lycoming Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: May 6, 2019.
3. Seneca Resources Company, LLC; Pad ID: PHC 4H; ABR–20090501.R2; Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: May 7, 2019.
4. Seneca Resources Company, LLC; Pad ID: PHC 5H; ABR–20090502.R2; Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: May 7, 2019.
5. Seneca Resources Company, LLC; Pad ID: PHC 9H; ABR–20090503.R2; Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 0.9990 mgd; Approval Date: May 7, 2019.
6. Seneca Resources Company, LLC; Pad ID: Wilcox Pad F; ABR–20090505.R2; Covington Township, Tioga County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: May 13, 2019.
7. Repsol Oil & Gas USA, LLC; Pad ID: CEASE (01 005/008) R; ABR–20090506.R2; Troy Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: May 13, 2019.
8. Repsol Oil & Gas USA, LLC; Pad ID: SHEDDEN (01 026/027) R; ABR–20090507.R2; Troy Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: May 13, 2019.
9. Repsol Oil & Gas USA, LLC; Pad ID: HARRIS (01 004) M; ABR–20090508.R2; Armenia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: May 13, 2019.
10. Repsol Oil & Gas USA, LLC; Pad ID: BENSE (01 025/070) B; ABR–20090509.R2; Troy Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: May 13, 2019.
11. Repsol Oil & Gas USA, LLC; Pad ID: PHINNEY (01 006) J; ABR–20090510.R2; Troy Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: May 13, 2019.
12. Chief Oil & Gas, LLC; Pad ID: Blanchard Drilling Pad; ABR–201405002.R1; McNett Township, Lycoming County, Pa.; Consumptive Use of Up to 2.5000 mgd; Approval Date: May 13, 2019.
13. Inflection Energy (PA), LLC; TLC Pad; ABR–201405004.R1; Eldred Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: May 13, 2019.
14. Chief Oil & Gas, LLC; Pad ID: Harper Unit #1; ABR–20090515.R2; West Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: May 14, 2019.
15. Chief Oil & Gas, LLC; Pad ID: Jennings Unit #1H; ABR–20090516.R2; West Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: May 14, 2019.
16. Chief Oil & Gas, LLC; Pad ID: Black Unit #1H; ABR–20090517.R2; Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: May 14, 2019.
17. ARD Operating, LLC; Pad ID: Little Fawn Pad A; ABR–201905004; Cascade Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: May 20, 2019.
18. ARD Operating, LLC; Pad ID: David C Duncan Pad B; ABR–201905005; Cascade Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: May 20, 2019.
19. Chief Oil & Gas, LLC; Pad ID: Corbett Unit Pad; ABR–201905006; Overton Township, Bradford County, Pa.; Consumptive Use of Up to 2.5000 mgd; Approval Date: May 20, 2019.
20. BKV Operating, LLC; Pad ID: Cowfer—1; ABR–20090417.R2; Rush

Township, Centre County, Pa.; Consumptive Use of Up to 0.9990 mgd; Approval Date: May 20, 2019.

21. Chesapeake Appalachia, L.L.C.; Pad ID: Ward; ABR–20090519.R2; West Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 20, 2019.

22. Chesapeake Appalachia, L.L.C.; Pad ID: Hannan; ABR–20090520.R2; Troy Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 20, 2019.

23. Chesapeake Appalachia, L.L.C.; Pad ID: Isbell; ABR–20090521.R2; Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 20, 2019.

24. Repsol Oil & Gas USA, LLC; Pad ID: KNIGHTS (01 044) L; ABR–20090522.R2; Troy Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: May 20, 2019.

25. Repsol Oil & Gas USA, LLC; Pad ID: HARRIS (01 012) A; ABR–20090523.R2; Armenia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: May 20, 2019.

26. Repsol Oil & Gas USA, LLC; Pad ID: THOMAS (01 038) FT; ABR–20090524.R2; Troy Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: May 21, 2019.

27. Chesapeake Appalachia, L.L.C.; Pad ID: Otten; ABR–20090526.R2; Asylum Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 22, 2019.

28. Chesapeake Appalachia, L.L.C.; Pad ID: Mowry; ABR–20090527.R2; Tuscarora Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 22, 2019.

29. Chesapeake Appalachia, L.L.C.; Pad ID: May; ABR–20090528.R2; Granville Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 22, 2019.

30. Chesapeake Appalachia, L.L.C.; Pad ID: John Barrett; ABR–20090529.R2; Asylum Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 22, 2019.

31. Chesapeake Appalachia, L.L.C.; Pad ID: James Barrett; ABR–20090530.R2; Asylum Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 22, 2019.

32. Chesapeake Appalachia, L.L.C.; Pad ID: Chancellor; ABR–20090532.R2; Asylum Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 22, 2019.

33. Chesapeake Appalachia, L.L.C.; Pad ID: Clapper; ABR–20090533.R2; Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 22, 2019.

34. Chesapeake Appalachia, L.L.C.; Pad ID: Judd; ABR–20090534.R2; Monroe Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 22, 2019.

35. Chesapeake Appalachia, L.L.C.; Pad ID: VanNoy; ABR–20090535.R2; Granville Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 22, 2019.

36. SWEPI LP; Pad ID: Tice 653; ABR–201403002.R1; Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: May 28, 2019.

37. SWEPI LP; Pad ID: Shughart 534; ABR–201403003.R1; Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: May 28, 2019.

38. SWEPI LP; Pad ID: Shughart 490; ABR–201403004.R1; Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: May 28, 2019.

39. Chesapeake Appalachia, L.L.C.; Pad ID: Przybyszewski; ABR–20090555.R2; Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: May 29, 2019.

40. Chief Oil & Gas, LLC.; Pad ID: Harris #1H; ABR–20090556.R2; Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: May 29, 2019.

41. Cabot Oil & Gas Corporation; Pad ID: HawkJ P1; ABR–201403013.R1; Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: May 29, 2019.

42. Cabot Oil & Gas Corporation; Pad ID: GrasavageE P1; ABR–201403014.R1; Jessup Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: May 29, 2019.

43. Cabot Oil & Gas Corporation; Pad ID: SlocumS P1; ABR–201403015.R1; Jackson Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: May 29, 2019.

44. SWN Production Company, LLC; Pad ID: Powers Pad Site; ABR–20090511.R2; Forest Lake Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: May 31, 2019.

45. SWN Production Company, LLC; Pad ID: Lepley Pad—TI–04; ABR–201405006.R1; Liberty Township, Tioga County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: May 31, 2019.

**Authority:** Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806 and 808.

Dated: June 10, 2019.

**Jason E. Oyler,**

*General Counsel and Secretary to the Commission.*

[FR Doc. 2019–12512 Filed 6–12–19; 8:45 am]

BILLING CODE 7040–01–P

## SUSQUEHANNA RIVER BASIN COMMISSION

### Grandfathering (GF) Registration Notice

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Notice.

**SUMMARY:** This notice lists Grandfathering Registration for projects by the Susquehanna River Basin Commission during the period set forth in **DATES**.

**DATES:** May 1–31, 2019.

**ADDRESSES:** Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

**FOR FURTHER INFORMATION CONTACT:** Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

**SUPPLEMENTARY INFORMATION:** This notice lists GF Registration for projects, described below, pursuant to 18 CFR 806, Subpart E for the time period specified above:

### Grandfathering Registration Under 18 CFR Part 806, Subpart E

1. Village of Cooperstown—Water Department, GF Certificate No. GF–201905030, Village of Cooperstown, Otsego County, N.Y.; Otsego Lake; Issue Date: May 7, 2019.

2. Corey Creek Golf Club, GF Certificate No. GF–201905031, Richmond Township, Tioga County, Pa.; Irrigation Pond; Issue Date: May 7, 2019.

3. Huntsinger Farms, Inc., GF Certificate No. GF–201905032, Hegins and Hubley Townships, Schuylkill County, Pa.; Deep Creek 1, Deep Creek 2, Pine Creek 1, Pine Creek 2, and Monroes Pond; Issue Date: May 7, 2019.

**Authority:** Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806 and 808.

Dated: June 10, 2019.

**Jason E. Oyler,**

*General Counsel and Secretary to the Commission.*

[FR Doc. 2019–12511 Filed 6–12–19; 8:45 am]

BILLING CODE 7040–01–P

## SUSQUEHANNA RIVER BASIN COMMISSION

### Projects Approved for Consumptive Uses of Water

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Notice.

**SUMMARY:** This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

**DATES:** April 1–30, 2019.

**ADDRESSES:** Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

**FOR FURTHER INFORMATION CONTACT:** Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

**SUPPLEMENTARY INFORMATION:** This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and § 806.22(f) for the time period specified above:

### Approvals by Rule Issued Under 18 CFR 806.22(f)

1. SWN Production Company, LLC.; Pad ID: Webster—1; ABR–20090401.R2; Franklin Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.9999 mgd; Approval Date: April 11, 2019.
2. SWN Production Company, LLC.; Pad ID: Holbrook #1; ABR–20090402.R2; Liberty Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.9990 mgd; Approval Date: April 11, 2019.
3. SWN Production Company, LLC.; Pad ID: Turner—1; ABR–20090403.R2; Middletown Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.9990 mgd; Approval Date: April 11, 2019.
4. SWN Production Company, LLC; Pad ID: Fiondi—1; ABR–20090404.R2; Bridgewater Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.0010 mgd; Approval Date: April 11, 2019.

**Authority:** Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806 and 808.

Dated: June 10, 2019.

**Jason E. Oyler,**

*General Counsel and Secretary to the Commission.*

[FR Doc. 2019–12509 Filed 6–12–19; 8:45 am]

BILLING CODE 7040–01–P

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[Docket No. USTR–2018–0001]**

### Exclusion of Particular Products From the Solar Products Safeguard Measure

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of product exclusions.

**SUMMARY:** On January 23, 2018, the President imposed a safeguard measure on imports of certain solar products pursuant to a Section 201 investigation. On February 14, 2018, the United States Trade Representative (Trade Representative) established a procedure to request product-specific exclusions from application of the safeguard measure. On September 19, 2018, the Trade Representative granted certain of those exclusion requests. This notice announces the Trade Representative's determination to grant additional exclusion requests, as specified in the Annex to this notice. The Trade Representative will not further consider exclusion requests that were not granted in this or the September 19 notices. This action is without prejudice to the Trade Representative's authority to grant exclusions if there is another round of requests for exclusion.

**DATES:** The product exclusions announced in this notice will apply as of June 13, 2019.

**FOR FURTHER INFORMATION CONTACT:** Victor Mroczka, Office of WTO and Multilateral Affairs, at *vmroczka@ustr.eop.gov* or (202) 395–9450, or Dax Terrill, Office of General Counsel, at *Dax.Terrill@ustr.eop.gov* or (202) 395–4739.

**SUPPLEMENTARY INFORMATION:**

### A. Background

On January 23, 2018, the President, issued Proclamation 9693 (83 FR 3541) to impose a safeguard measure with respect to certain crystalline silicon photovoltaic (CSPV) cells and other products (CSPV products) containing these cells. The Proclamation directed the Trade Representative to establish procedures for interested persons to request the exclusion of particular products from the safeguard measure. It also authorized the Trade Representative, in consultation with the Secretaries of Commerce and Energy, to exclude particular products and modify the Harmonized Tariff Schedule of the United States (HTSUS) upon publication of a determination in the **Federal Register**.

On February 14, 2018, the Trade Representative issued a notice setting out the procedure to request product exclusions, and opened a public docket. *See* 83 FR 6670 (the February 14 notice). Under the February 14 notice, requests for exclusion were to identify the particular product in terms of its physical characteristics, such as dimensions, wattage, material composition, or other distinguishing characteristics, that differentiate it from other products that are subject to the safeguard measure. The notice provided that the Trade Representative would not consider requests identifying the product at issue in terms of the identity of the producer, importer, or ultimate consumer; the country of origin; or trademarks or tradenames. It also noted that the Trade Representative would only grant exclusions that did not undermine the objectives of the safeguard measure.

The February 14 notice provided for consideration of submissions requesting an exclusion that were filed no later than March 16, 2018. The Office of the U.S. Trade Representative (USTR) received 48 product exclusion requests and 213 subsequent comments responding to various requests. The exclusion requests generally fell into seven categories: (1) Products that consist of attachments or other parts that can be mounted to solar products; (2) products that constitute 72-cell or greater panels; (3) products with particular configurations for additional performance; (4) products with specialized functions; (5) consumer and specialty products; (6) bifacial panels and bifacial solar cells; and (7) solar cells without busbars or gridlines and panels containing these solar cells.

On September 19, 2018, the Trade Representative granted certain product exclusion requests with a determination in the **Federal Register** (83 FR 47393).

### B. Determination To Grant Certain Exclusions

Based on an evaluation of the factors set out in the February 14 notice, which are summarized above, the Trade Representative has determined to grant the product exclusions set out in the Annex to this notice.

### C. Remaining Requests Not Addressed in This Notice

USTR has completed review of all exclusion requests received in response to the February 14 notice. The Trade Representative will not further consider exclusion requests that were not granted in this or the September 19 notices. This action is without prejudice to the Trade Representative's authority to grant exclusions if USTR initiates another round of requests for exclusion.

**D. Future Exclusion Requests**

The Trade Representative is not entertaining additional exclusion requests at this time. However, USTR will monitor developments in the U.S. market for CSPV products and, if warranted, provide an opportunity to submit additional requests for exclusion at a future date.

**Annex**

Effective with respect to articles entered, or withdrawn from a warehouse for consumption, on or after 12:01 a.m. eastern daylight time on June 13, 2019, U.S. note 18 to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified by inserting the following new subdivisions in numerical sequence at the end of subdivision (c)(iii):

''(15) bifacial solar panels that absorb light and generate electricity on each side of the panel and that consist of only bifacial solar cells that absorb light and generate electricity on each side of the cells;

(16) flexible fiberglass solar panels without glass components other than fiberglass, such panels having power outputs ranging from 250 to 900 watts;

(17) solar panels consisting of solar cells arranged in rows that are laminated in the panel and that are separated by more than 10 mm, with an optical film spanning the gaps between all rows that is designed to direct sunlight onto the solar cells, and not including panels that lack said optical film or only have a white or other backing layer that absorbs or scatters sunlight.''

**Jeffrey Gerrish,**

*Deputy United States Trade Representative, Office of the U.S. Trade Representative.*

[FR Doc. 2019–12476 Filed 6–12–19; 8:45 am]

BILLING CODE 3290–F9–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. 2018–80]**

### Petition for Exemption; Summary of Petition Received; American Aerospace Technologies, Inc.

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

**ACTION:** Notice.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number and must be received on or before July 3, 2019.

**ADDRESSES:** Send comments identified by docket number FAA–2018–0864 using any of the following methods:

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

*Privacy:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

*Docket:* Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jake Troutman, (202) 683–7788, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 7, 2019.

**James M. Crotty,**

*Acting Executive Director, Office of Rulemaking.*

**Petition For Exemption**

*Docket No.:* FAA–2018–0864.

*Petitioner:* American Aerospace Technologies, Inc.

*Section(s) of 14 CFR Affected:* §§ 61.113(a) & (b); 61.133(a); 91.7(a); 91.9(b)(2); 91.103(b)(1); 91.119(c); 91.121; 91.151; 91.203(a) & (b); 91.405(a); 91.407(a)(1); 91.409(a)(2); 91.417(a) & (b).

*Description of Relief Sought:* The proposed exemption, if granted, would allow the commercial operation of the HX8 XXL octocopter unmanned aircraft system, manufactured by Harris Aerial, weighing not more than 150 pounds for the purpose of conducting critical infrastructure operations during routine operations and in emergency support operations in conjunction with emergency first responders. Routine operations include asset inspection and mapping, construction support, and custom sensor deployment. Emergency operations include locating and sensing outages and disaster recovery support. The pilot in command will hold, at minimum, a part 107 Operator's Certificate, a Private Pilot Knowledge Test Certificate, a Third-Class Medical Certificate, and will have completed the Private Pilot Ground School.

[FR Doc. 2019–12444 Filed 6–12–19; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2019–0006]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt nine individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. They are unable to meet the vision requirement in one eye for various reasons. The exemptions enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

**DATES:** The exemptions were applicable on April 30, 2019. The exemptions expire on April 30, 2021.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

## I. Public Participation

### *A. Viewing Documents and Comments*

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2019–0006, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

### *B. Privacy Act*

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

## II. Background

On March 28, 2019, FMCSA published a notice announcing receipt of applications from nine individuals requesting an exemption from vision requirement in 49 CFR 391.41(b)(10) and requested comments from the public (84 FR 11859). The public comment period ended on April 29, 2019, and three comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

## III. Discussion of Comments

FMCSA received three comments in this proceeding. JT Sale submitted a comment regarding the DOT Hours of Service (HOS) and Electronic Logging Device (ELD) rules, which are outside the scope of this notice. In addition, Maura Miller submitted two comments regarding the DOT HOS and ELD rules, which are outside the scope of this notice.

## IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for up to five years from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows applicants to operate CMVs in interstate commerce. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The Agency's decision regarding these exemption applications is based on medical reports about the applicants' vision, as well as their driving records and experience driving with the vision deficiency. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the March 28, 2019, **Federal Register** notice (84 FR 11859) and will not be repeated in this notice.

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their limitation and demonstrated their ability to drive safely. The nine exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, complete loss of vision, enucleation, macular scar, optic neuropathy, and retinal detachment. In most cases, their eye conditions were not recently developed. Five of the applicants were either born with their vision impairments or have had them since childhood. The four individuals that sustained their vision conditions as adults have had it for a range of 4 to 25 years. Although each applicant has one eye that does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and, in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV.

Doctors' opinions are supported by the applicants' possession of a valid license to operate a CMV. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV with their limited vision in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions.

The applicants in this notice have driven CMVs with their limited vision in careers ranging for 3 to 65 years. In the past three years, one driver was involved in a crash, and two drivers were convicted of moving violations in CMVs. All the applicants achieved a record of safety while driving with their vision impairment that demonstrates the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

Consequently, FMCSA finds that in each case exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption.

## V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10) and (b) by a certified Medical Examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) each driver must provide a copy of the ophthalmologist's or optometrist's report to the Medical Examiner at the time of the annual medical examination; and (3) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

## VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

## VII. Conclusion

Based upon its evaluation of the nine exemption applications, FMCSA exempts the following drivers from the vision requirement, 49 CFR 391.41(b)(10), subject to the requirements cited above:

Clay A. Applegarth (CO),
Anthony J. Cesternino (VA),
Steven S. Criss (FL),
Terrence H. Flick II (IL),
Ismael Gonzalez (NJ),
Philip E. Henderson (MO),
Brian S. Metheny (PA),
Roger L. Ridder (KS),
Cody R. Zeigler (PA).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: June 7, 2019.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2019–12493 Filed 6–12–19; 8:45 am]

BILLING CODE 4910–EX–P

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[FMCSA Docket No. FMCSA–2019–0028]**

### Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt nine individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

**DATES:** The exemptions were applicable on May 8, 2019. The exemptions expire on May 8, 2021.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

## I. Public Participation

### *A. Viewing Documents and Comments*

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2019–0028, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

### *B. Privacy Act*

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

## II. Background

On April 1, 2019, FMCSA published a notice announcing receipt of applications from nine individuals requesting an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (84 FR 12317). The public comment period ended on May 1, 2019, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section *H. Epilepsy: § 391.41(b)(8),* paragraphs 3, 4, and 5.]

## III. Discussion of Comments

FMCSA received no comments in this proceeding.

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[1] See *http://www.ecfr.gov/cgi-bin/text-idx?SID=e47b48a9ea42dd67d999246e23d97970&mc=true&node=pt49.5.391&rgn=div5#ap49.5.391_171.a* and *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

## IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption for up to five years from the epilepsy and seizure disorder prohibition in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

In reaching the decision to grant these exemption requests, FMCSA considered the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The January 15, 2013, **Federal Register** notice (78 FR 3069) provides the current MEP recommendations which is the criteria the Agency uses to grant seizure exemptions.

The Agency's decision regarding these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a history of seizure and each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in the Motor Carrier Management Information System (MCMIS). For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency (SDLA). A summary of each applicant's seizure history was discussed in the April 1, 2019, **Federal Register** notice (84 FR 12317) and will not be repeated in this notice.

These nine applicants have been seizure-free over a range of 31 years while taking anti-seizure medication and maintained a stable medication treatment regimen for the last two years. In each case, the applicant's treating physician verified his or her seizure history and supports the ability to drive commercially.

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the epilepsy and seizure disorder prohibition in 49 CFR 391.41(b)(8) is likely to achieve a level of safety equal to that existing without the exemption.

## V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must remain seizure-free and maintain a stable treatment during the two-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified Medical Examiner, as defined by 49 CFR 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

## VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

## VII. Conclusion

Based upon its evaluation of the nine exemption applications, FMCSA exempts the following drivers from the epilepsy and seizure disorder prohibition, 49 CFR 391.41(b)(8), subject to the requirements cited above:

Darcy D. Baker (OH),
Kenneth R. Boglia (NC),
David Consiglio (NY),
Gary Cox (OR),
Jim A. Hughes (WA),
Brent L. Mapes (IL),
Enrico G. Mucci (PA),
Charles R. Skelton (AL)

In accordance with 49 U.S.C. 31315(b)(1), each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: June 7, 2019.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2019–12492 Filed 6–12–19; 8:45 am]

BILLING CODE 4910–EX–P

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2019–0008]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 12 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. They are unable to meet the vision requirement in one eye for various reasons. The exemptions enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

**DATES:** The exemptions were applicable on May 21, 2019. The exemptions expire on May 21, 2021.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001,*fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

## I. Public Participation

### *A. Viewing Documents and Comments*

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2019–0008, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket

online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

*B. Privacy Act*

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

## II. Background

On April 18, 2019, FMCSA published a notice announcing receipt of applications from 12 individuals requesting an exemption from vision requirement in 49 CFR 391.41(b)(10) and requested comments from the public (84 FR 16333). The public comment period ended on May 20, 2019, and ten comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

## III. Discussion of Comments

FMCSA received ten comments in this proceeding. Merlon Cronkite submitted a comment in support of FMCSA's decision to exempt Bret Graham from the vision requirement in 49 CFR 391.41(b)(10).

Nicole Neft of the Minnesota Department of Public Safety (MN DPS) submitted a comment stating that MN DPS holds no objections to the decision to grant exemptions to Vilas R. Adank, Lance S. Binner, and Stephen L. Cornish.

Eric Garman, Evelyn Goris, Maricelis Guzman, Robert Moran, Anthony Sanchez, and Juana Sanchez submitted comments in support of FMCSA's decision to grant the exemptions.

An anonymous individual submitted a comment in support of FMCSA's decision to grant an exemption to an unspecified individual.

Andrew Schave submitted a comment stating that individuals applying for an exemption from the vision standard at 49 CFR 391.41(b)(10) should not be required to demonstrate three years of experience operating a CMV in intrastate commerce. FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past three years in order to qualify for an exemption from the vision standard. This evidence, and other factors, allow FMCSA to determine if granting an exemption is likely to achieve a level of safety that is greater than, or equal to, the level that would be achieved without the exemption. The basis for this requirement is discussed at length in Section IV of this notice.

Mr. Schave also suggested that the vision standard of 49 CFR 391.41(b)(10) be changed, altering the requirements for distant visual acuity. This is outside the scope of the current announcement.

## IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for up to five years from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows applicants to operate CMVs in interstate commerce. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The Agency's decision regarding these exemption applications is based on medical reports about the applicants' vision, as well as their driving records and experience driving with the vision deficiency. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the April 18, 2019, **Federal Register** notice (84 FR 16333) and will not be repeated in this notice.

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their limitation and demonstrated their ability to drive safely. The 12 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, aphakia, central serous chorioretinopathy, glaucoma, macular scar, optic nerve damage, optic neuropathy, prosthesis, and retinal scar. In most cases, their eye conditions were not recently developed. Eight of the applicants were either born with their vision impairments or have had them since childhood. The four individuals that sustained their vision conditions as adults have had it for a range of 5 to 30 years. Although each applicant has one eye that does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and, in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV.

Doctors' opinions are supported by the applicants' possession of a valid license to operate a CMV. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV with their limited vision in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions.

The applicants in this notice have driven CMVs with their limited vision in careers ranging for 3 to 66 years. In the past three years, one driver was involved in a crash, and one driver was convicted of a moving violation in a CMV. All the applicants achieved a record of safety while driving with their vision impairment that demonstrates the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

Consequently, FMCSA finds that in each case exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level

of safety equal to that existing without the exemption.

**V. Conditions and Requirements**

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10) and (b) by a certified Medical Examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) each driver must provide a copy of the ophthalmologist's or optometrist's report to the Medical Examiner at the time of the annual medical examination; and (3) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

**VI. Preemption**

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

**VII. Conclusion**

Based upon its evaluation of the 12 exemption applications, FMCSA exempts the following drivers from the vision requirement, 49 CFR 391.41(b)(10), subject to the requirements cited above:

Vilas R. Adank (MN)
Lance S. Binner (MN)
Jody E. Bondi (AZ)
Stephen L. Cornish (MN)
Dale A. Dodson (KS)
Jorge Estol (FL)
Bret S. Graham (ME)
Daniel W. Hodge (TN)
Russell P. Kosinko (PA)
Joe M. Perez (TX)
Samuel Sanchez (NY)
Curtis M. Tharpe (VA)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: June 7, 2019.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2019–12490 Filed 6–12–19; 8:45 am]

BILLING CODE 4910–EX–P

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2010–0203; FMCSA–2016–0011; FMCSA–2016–0313]**

### Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to renew exemptions for nine individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

**DATES:** The exemptions were applicable on February 3, 2019. The exemptions expire on February 3, 2021.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

**I. Public Participation**

*A. Viewing Documents and Comments*

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2010–0203; FMCSA–2016–0011; FMCSA–2016–0313, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

*B. Privacy Act*

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

**II. Background**

On April 1, 2019, FMCSA published a notice announcing its decision to renew exemptions for nine individuals from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (84 FR 12320). The public comment period ended on May 1, 2019, and no comments were received.

As stated in the previous notice, FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5.]

**III. Discussion of Comments**

FMCSA received no comments in this proceeding.

## IV. Conclusion

Based on its evaluation of the nine renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8).

In accordance with 49 U.S.C. 31136(e) and 31315, the following groups of drivers received renewed exemptions in the month of February and are discussed below. As of February 2019, and in accordance with 49 U.S.C. 31136(e) and 31315, the following nine individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers (84 FR 12320):

Ryan Babler (WI)
James Connelly (NJ)
Ricky Conway, Jr. (MO)
Bradley Hollister (PA)
Henrietta Ketcham (NY)
Michael Merical (NY)
Elvin P. Morgan (CA)
Larry Nicholson (NC)
Daniel Zielinski (OR)

The drivers were included in docket numbers FMCSA–2010–0203; FMCSA–2016–0011; FMCSA–2016–0313. Their exemptions are applicable as of February 3, 2019, and will expire on February 3, 2021.

In accordance with 49 U.S.C. 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: June 7, 2019.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2019–12491 Filed 6–12–19; 8:45 am]

BILLING CODE 4910–EX–P

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## DEPARTMENT OF TRANSPORTATION

**[Docket No. DOT–OST–2015–0271]**

### Agency Request for Renewal of a Previously Approved Information Collection: Prioritization and Allocation Authority Exercised by the Secretary of Transportation Under the Defense Production Act

**AGENCY:** Office of the Secretary of Transportation, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of Transportation (DOT) invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves information required in an application to request Special Priorities Assistance. The information to be collected is necessary to facilitate the supply of civil transportation resources to promote the national defense. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995. A 60-day notice was published in the **Federal Register** on March 25, 2019. No comments were received.

**DATES:** Written comments should be submitted by July 15, 2019.

**ADDRESSES:** Your comments should be identified by Docket No. DOT–OST–2015–0271 and may be submitted through one of the following methods:

- *Office of Management and Budget, Attention:* Desk Officer for U.S. Department of Transportation, Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.
- *Email: oira_submission@omb.eop.gov.*
- *Fax:* (202) 395–5806. Attention: DOT/OST Desk Officer.

**FOR FURTHER INFORMATION CONTACT:** Anita Womack, 202–366–2250, Office of Intelligence, Security and Emergency Response, Office of the Secretary of Transportation, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2105–0567.

*Title:* Prioritization and Allocation Authority Exercised by the Secretary of Transportation Under the Defense Production Act.

*Form Numbers:* OST F 1254.

*Type of Review:* Renewal of a previously approved information collection.

*Background:* The Defense Production Act Reauthorization of 2009 (Pub. L. 111–67, September 30, 2009) requires each Federal agency with delegated authority under section 101 of the Defense Production Act of 1950, as amended (50 U.S.C. App. Sec. 2061 *et seq.*) to issue final rules establishing standards and procedures by which the priorities and allocations authority is used to promote the national defense. The Secretary of Transportation has the delegated authority for all forms of civil transportation. DOT's final rule, Transportation Priorities and Allocation System (TPAS), published October 2012, requires this information collection. Form OST F 1254, Request for Special Priorities Assistance, would be filled out by private sector applicants, such as transportation companies or organizations. The private sector applicant must submit company information, the services or items for which the assistance is requested, and specific information about those services or items.

*Respondents:* Private sector applicants, such as transportation companies or organizations.

*Number of Respondents:* We estimate 6 respondents.

*Total Annual Burden:* We estimate an average burden of 30 minutes per respondent for an estimated total annual burden of 3 hours.

*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 the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department 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.

*Authority:* The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

Issued in Washington, DC, on June 7, 2019.

**Donna O'Berry,**

*Deputy Director, Office of Intelligence, Security and Emergency Response.*

[FR Doc. 2019–12488 Filed 6–12–19; 8:45 am]

BILLING CODE 4910–9X–P

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 8824

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the

Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 8824, Like-Kind Exchanges.

**DATES:** Written comments should be received on or before August 12, 2019 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Sara Covington, (202)317–6038, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Sara.L.Covington@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Like-Kind Exchanges.

*OMB Number:* 1545–1190.

*Form Number:* 8824.

*Abstract:* Form 8824 is used by individuals, corporations, partnerships, and other entities to report the exchange of business or investment property, and the deferral of gains from such transactions under Internal Revenue Code section 1031. It is also used to report the deferral of gain under Code section 1043 from conflict-of-interest sales by certain members of the executive branch of the Federal government.

*Current Actions:* There is no changes in the paperwork burden previously approved by OMB.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households and business or other for-profit organizations.

*Estimated Number of Respondents:* 137,547.

*Estimated Number of Respondent:* 4 hours, 50 minutes.

*Estimated Total Annual Burden Hours:* 665,269.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 28, 2019.

**Laurie Brimmer,**

*Senior Tax Analyst.*

[FR Doc. 2019–12477 Filed 6–12–19; 8:45 am]

**BILLING CODE 4830–01–P**

# FEDERAL REGISTER

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No. 114 June 13, 2019


Part II

## The President


Memorandum of May 24, 2019—Delegation of Functions and Authorities Under the Nicaragua Human Rights and Anticorruption Act of 2018

Memorandum of May 24, 2019—Delegation of Functions and Authorities Under the Sanctioning the Use of Civilians as Defenseless Shields Act

Proclamation 9905—Flag Day and National Flag Week, 2019

Presidential Determination No. 2019–13 of June 10, 2019—Presidential Determination Pursuant to Section 303 of the Defense Production Act of 1950, as Amended

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# Presidential Documents

**Title 3—**

## The President

**Memorandum of May 24, 2019**

## Delegation of Functions and Authorities Under the Nicaragua Human Rights and Anticorruption Act of 2018

**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:

(a) delegate to the Secretary of the Treasury, in consultation with the Secretary of State, the functions and authorities vested in the President by section 5(a) of the Nicaragua Human Rights and Anticorruption Act of 2018 (Public Law 115–335) (the ''Act''), with respect to making a determination under the standards set forth in sections 5(a)(1)–(4) of the Act;

(b) delegate to the Secretary of the Treasury the functions and authorities vested in the President by section 5(a) of the Act, with respect to the imposition of the sanctions in section 5(c)(1)(A) of the Act following a determination by the Secretary of the Treasury under section 5(a);

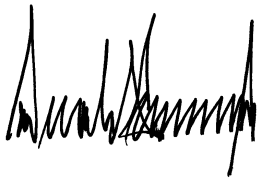
(c) delegate to the Secretary of the Treasury, in consultation with the Secretary of State, the functions and authorities vested in the President by section 5(d) of the Act;

(d) delegate to the Secretary of State the functions and authorities vested in the President by section 5(a) of the Act, with respect to the imposition of the sanctions in section 5(c)(1)(B) of the Act following a determination by the Secretary of the Treasury under section 5(a); and

(e) delegate to the Secretary of State, in consultation with the Secretary of the Treasury, the functions and authorities vested in the President by section 6(b) of the Act.

The functions and authorities 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 Act 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 State is authorized and directed to publish this memorandum in the *Federal Register*.



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

[FR Doc. 2019–12695
Filed 6–12–19; 11:15 am]
Billing code 4710–10–P

# Presidential Documents

**Memorandum of May 24, 2019**

## Delegation of Functions and Authorities Under the Sanctioning the Use of Civilians as Defenseless Shields Act

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

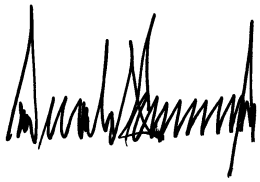
By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby:

(a) delegate to the Secretary of State the functions and authorities vested in the President by section 3(g) of the Sanctioning the Use of Civilians as Defenseless Shields Act Public Law 115–348) (the ''Act''); and

(b) delegate to the Secretary of the Treasury, in consultation with the Secretary of State, the functions and authorities vested in the President by sections 3(a), 3(b), 3(c), 3(d)(1), and 3(h) of the Act.

The functions and authorities 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 Act 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 State is authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,

*Washington, May 24, 2019*

[FR Doc. 2019–12696

Filed 6–12–19; 11:15 am]

Billing code 4710–10–P

# Presidential Documents

**Proclamation 9905 of June 7, 2019**

## Flag Day and National Flag Week, 2019

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

**A Proclamation**

On Flag Day and during National Flag Week, we celebrate and honor our Nation's lasting emblem, our great American flag. Since the Second Continental Congress adopted its design more than 200 years ago, the Stars and Stripes has been a powerful symbol of freedom, hope, and opportunity. We fly Old Glory from government buildings, schools, city halls, police and fire stations, stores, offices, and our front porches. Wherever Americans are gathered—sporting events, places of worship, parades, and rallies—our flag waves proudly, representing the enduring spirit of our country.

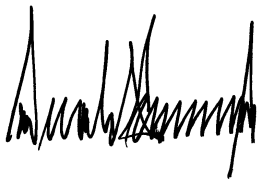
The American flag helps us to never forget the values of our Republic, and the valor of the men and women in uniform who have defended it. When we look at the red, white, and blue, we are filled with the same spirit of patriotism that stirred Francis Scott Key to pen the ''Star Spangled Banner'' during the withering bombardment of Fort McHenry in 1812. We are reminded of the blood spilled across generations to safeguard liberty. We are prompted to reflect with pride on the purity and righteousness of our cause—the same pride that swelled in the hearts of our boys as they took the beaches of Normandy, and as they raised the flag on Iwo Jima. And we are strengthened in our resolve to pursue justice and safeguard the rule of law, so that freedom can march on.

Today, and all throughout the week, let us recommit ourselves to the principles upon which our country was founded. With grateful hearts, let us reflect upon the price of freedom, and the brave souls who gave their last full measure to preserve it. As we raise our flag, as we stand and salute or place our hands over our hearts, let us renew our sacred pledge that we will forever remain ''one Nation under God, indivisible, with liberty and justice for all.''

To commemorate the adoption of our flag, the Congress, by joint resolution approved August 3, 1949, as amended (63 Stat. 492), designated June 14 of each year as ''Flag Day'' and requested that the President issue an annual proclamation calling for its observance and for the display of the flag of the United States on all Federal Government buildings. The Congress also requested, by joint resolution approved June 9, 1966, as amended (80 Stat. 194), that the President issue annually a proclamation designating the week in which June 14 occurs as ''National Flag Week'' and calling upon all citizens of the United States to display the flag during that week.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby proclaim June 14, 2019, as Flag Day, and the week starting June 9, 2019, as National Flag Week. I direct the appropriate officials to display the flag on all Federal Government buildings during this week, and I urge all Americans to observe Flag Day and National Flag Week by displaying the flag. I also encourage the people of the United States to observe with pride and all due ceremony those days from Flag Day through Independence Day, set aside by the Congress (89 Stat. 211), as a time to honor America, to celebrate our heritage in public gatherings and activities, and to publicly recite the Pledge of Allegiance to the Flag of the United States of America.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of June, 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. 2019–12697
Filed 6–12–19; 11:15 am]
Billing code 3295–F9–P

# Presidential Documents

**Presidential Determination No. 2019–13 of June 10, 2019**

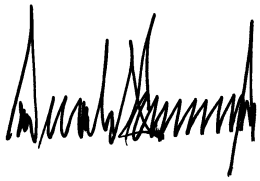
## Presidential Determination Pursuant to Section 303 Defense Production Act of 1950, as Amended

**Memorandum for the Secretary of Defense**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 303 of the Defense Production Act of 1950, as amended (the ''Act'') (50 U.S.C. 4533), I hereby determine, pursuant to section 303(a)(5) of the Act, that the domestic production capability for small unmanned aerial systems is essential to the national defense.

Without Presidential action under section 303 of the Act, United States industry cannot reasonably be expected to provide the production capability for small unmanned aerial systems adequately and in a timely manner. Further, purchases, purchase commitments, or other action pursuant to section 303 of the Act are the most cost-effective, expedient, and practical alternative method for meeting the need for this critical capability.

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



THE WHITE HOUSE,
*Washington, June 10, 2019*

[FR Doc. 2019–12698
Filed 6–12–19; 11:15 am]
Billing code 5001–06–P

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