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BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1041

[Docket No. CFPB–2019–0007]

RIN 3170–AA95

Payday, Vehicle Title, and Certain High-Cost Installment Loans; Delay of Compliance Date; Correcting Amendments

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; delay of compliance date; correcting amendments.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is issuing this final rule to delay the August 19, 2019 compliance date for the mandatory underwriting provisions of the regulation promulgated by the Bureau in November 2017 governing Payday, Vehicle Title, and Certain High-Cost Installment Loans (2017 Final Rule or Rule). Compliance with these provisions of the Rule is delayed by 15 months, to November 19, 2020. The Bureau is also making certain conforming changes and corrections to address several clerical and non-substantive errors it has identified in the Rule.

DATES:

Effective date: The amendments in this final rule are effective on August 16, 2019.

Compliance dates: The compliance date for §§ 1041.4 through 1041.6, 1041.10, and 1041.12(b)(1) through (3) in the final rule published on November 17, 2017 (82 FR 54472), as amended by this final rule, is delayed from August 19, 2019 to November 19, 2020. The compliance date for §§ 1041.2, 1041.3, 1041.7 through 1041.9, 1041.12(a), (b) introductory text, and (b)(4) and (5), and 1041.13 remains August 19, 2019.

FOR FURTHER INFORMATION CONTACT: Lawrence Lee or Adam Mayle, Counsels; or Kristine M. Andreassen, Senior Counsel, Office of Regulations, at

202–435–7700. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION:

I. Summary of the Final Rule

On October 5, 2017, the Bureau issued the 2017 Final Rule establishing regulations for payday loans, vehicle title loans, and certain high-cost installment loans, relying on authorities under Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).¹ The Rule was published in the *Federal Register* on November 17, 2017.² The 2017 Final Rule addressed two discrete topics. First, the Rule contained a set of provisions with respect to the underwriting of covered short-term loans and longer-term balloon-payment loans, including payday and vehicle title loans, and related reporting and recordkeeping requirements.³ These provisions are referred to herein as the “Mandatory Underwriting Provisions” of the 2017 Final Rule. Second, the Rule contained a set of provisions, applicable to the same set of loans and also to certain high-cost installment loans, establishing certain requirements and limitations with respect to attempts to withdraw payments from consumers’ checking or other accounts, and related recordkeeping requirements.⁴ These are referred to herein as the “Payment Provisions” of the 2017 Final Rule.

The 2017 Final Rule became effective on January 16, 2018, although most provisions (12 CFR 1041.2 through 1041.10, 1041.12, and 1041.13) had a compliance date of August 19, 2019.⁵

¹ Public Law 111–203, 124 Stat. 1376 (2010).

² 82 FR 54472 (Nov. 17, 2017). The Bureau released its proposal regarding payday, vehicle title, and certain high-cost installment loans for public comment on June 2, 2016 (2016 Proposal). 81 FR 47864 (July 22, 2016).

³ 12 CFR 1041.4 through 1041.6, 1041.10, 1041.11, and portions of 1041.12.

⁴ 12 CFR 1041.7 through 1041.9, and portions of 1041.12.

⁵ 82 FR 54472, 54814. On January 16, 2018, the Bureau issued a statement announcing its intention to engage in rulemaking to reconsider the 2017 Final Rule. Bureau of Consumer Fin. Prot., *Statement on Payday Rule* (Jan. 16, 2018), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-statement-payday-rule/>. On October 26, 2018, the Bureau issued a subsequent statement announcing it expected to issue notices of proposed rulemaking (NPRMs) to reconsider certain provisions of the 2017 Final Rule and to address the Rule’s compliance date. Bureau of Consumer Fin.

On February 6, 2019, the Bureau issued proposals seeking comment on whether the Bureau should rescind the Mandatory Underwriting Provisions of the 2017 Final Rule (Reconsideration NPRM)⁶ and on whether it should delay the compliance date for those provisions (Delay NPRM).⁷ In the Delay NPRM, the Bureau proposed to delay the August 19, 2019 compliance date for the 2017 Final Rule’s Mandatory Underwriting Provisions—specifically, §§ 1041.4 through 1041.6, 1041.10, 1041.11, and 1041.12(b)(1)(i) through (iii) and (b)(2) and (3)—to November 19, 2020.⁸ These proposals did not include reconsideration or delay of the Payment Provisions.

For the reasons discussed below and based on comments received, the Bureau is issuing this final rule to delay the August 19, 2019 compliance date for the Mandatory Underwriting Provisions, to November 19, 2020, in order to permit an orderly conclusion to its separate rulemaking process to reconsider the Mandatory Underwriting Provisions. In short, after reviewing the comments received on the Delay NPRM, the Bureau concludes that (1) it has strong reasons to revisit the Mandatory Underwriting Provisions on the grounds set out in the Reconsideration NPRM; and (2) if the Mandatory Underwriting

Prot., *Public Statement Regarding Payday Rule Reconsideration and Delay of Compliance Date* (Oct. 26, 2018), <https://www.consumerfinance.gov/about-us/newsroom/public-statement-regarding-payday-rule-reconsideration-and-delay-compliance-date/>. A legal challenge to the Rule was filed on April 9, 2018 and is pending in the United States District Court for the Western District of Texas. *Cmty. Fin. Serv. Ass’n of Am. v. Consumer Fin. Prot. Bureau*, No. 1:18–cv–295 (W.D. Tex.). On November 6, 2018, the Court issued an order staying the August 19, 2019 compliance date of the rule pending further order of the Court. *See id.*, ECF No. 53. The litigation is currently stayed. *See id.*, ECF No. 29.

⁶ 84 FR 4252 (Feb. 14, 2019).

⁷ 84 FR 4298 (Feb. 14, 2019).

⁸ The list of provisions for which the Bureau proposed to delay the August 19, 2019 compliance date in the Delay NPRM corresponded to the list of provisions that the Bureau proposed to rescind in the Reconsideration NPRM. As discussed below, although § 1041.11 is part of the Mandatory Underwriting Provisions of the Rule, its operative date was January 16, 2018, which the Bureau is not changing. In the Reconsideration NPRM, the Bureau proposed to modify the introductory text of § 1041.12(b)(1) for clarity as to its application to loan agreements for all covered loans, and thus it was not listed with the provisions that the Bureau proposed to rescind. Since the Bureau is not modifying the introductory text of § 1041.12(b)(1) in this final rule, it is included in the list of provisions for which the compliance date is delayed.

Provisions went into effect while the Bureau was in the process of reconsidering these provisions, as described below, consequences would likely follow—some of which may be irreversible even if the Mandatory Underwriting Provisions were later rescinded—that the Bureau believes may prove unwarranted and may undermine effective reconsideration of the 2017 Final Rule. In light of these considerations, the Bureau concludes that it is appropriate to delay compliance with the Mandatory Underwriting Provisions for 15 months to allow time for the Reconsideration NPRM rulemaking process to be completed.

The Bureau is also making conforming amendments to certain regulatory text and commentary adopted in the 2017 Final Rule to reflect the compliance date delay as well as including an additional section to the Rule setting forth the compliance dates in detail.

The Bureau is also making certain corrections to address several clerical and non-substantive errors it has identified in the 2017 Final Rule. No substantive change is intended by these corrections.

II. Background

A. The 2017 Final Rule

In the 2017 Final Rule, the Bureau established regulations for payday loans, vehicle title loans, and certain high-cost installment loans. The Rule was published in the **Federal Register** on November 17, 2017. It became effective on January 16, 2018, although most provisions (§§ 1041.2 through 1041.10, 1041.12, and 1041.13) have a compliance date of August 19, 2019.

As mentioned above, the 2017 Final Rule addressed two discrete topics: The Mandatory Underwriting Provisions and the Payment Provisions.⁹ The Mandatory Underwriting Provisions

⁹ The Payment Provisions apply to a broader group of covered loans, which include covered short-term and longer-term balloon-payment loans as well as certain high-cost installment loans, establishing certain requirements and limitations with respect to attempts to withdraw payments from consumers' checking or other accounts. The Rule identifies as an unfair and abusive practice lenders' attempts to withdraw payment on these loans from consumers' accounts after two consecutive payment attempts have failed, unless the consumer provides a new and specific authorization to do so. The Rule also prescribes notices lenders must provide to consumers before attempting to withdraw payments from their accounts.

In addition, the Rule includes other generally applicable provisions such as definitions, exemptions, and requirements for compliance programs and record retention (with portions specific to the Mandatory Underwriting Provisions and to the Payment Provisions).

identified as an unfair and abusive practice the making of certain short-term and longer-term balloon-payment loans without reasonably determining that consumers will have the ability to repay the loans according to their terms. The Mandatory Underwriting Provisions include two methods that permit providers to offer covered short-term and longer-term balloon-payment loans. Under one method, lenders making covered short-term and longer-term balloon-payment loans are required to, among other things, make a reasonable determination that the consumer would be able to make the payments on the loan and be able to meet the consumer's basic living expenses and other major financial obligations without needing to re-borrow over the ensuing 30 days; the Rule sets forth a number of specific requirements that a lender must satisfy in this regard.¹⁰ Under the other method, lenders are allowed to make certain covered short-term loans without meeting all the specific underwriting criteria as long as the loan satisfies certain prescribed terms, the lender confirms that the consumer meets specified borrowing history conditions, and the lender provides required disclosures to the consumer.¹¹

In general, under either method, a lender is to obtain and consider a consumer report from an information system registered or provisionally registered with the Bureau (referred to herein as a "registered information system" or an RIS) before making a covered short-term or longer-term balloon-payment loan.¹² In addition, other portions of the Rule require lenders to furnish to RISEs¹³ certain information concerning covered short-term and longer-term balloon-payment loans at loan consummation, during the

¹⁰ 12 CFR 1041.5.

¹¹ 12 CFR 1041.6.

¹² 12 CFR 1041.5(c)(2)(ii)(B) and (d)(1), and 1041.6(a). Only the latter approach, however, requires the consumer report from an information system that has been registered with the Bureau for 180 days or more pursuant to § 1041.11(c)(2) or is registered with the Bureau pursuant to § 1041.11(d)(2). See § 1041.6(a). Under § 1041.5, a national consumer report (as defined in § 1041.5(a)(4)) is required, subject to limited exceptions, as is a consumer report from an RIS if available.

¹³ The 2017 Final Rule bifurcated the process for registering information systems: The first phase for entities seeking preliminary registration prior to the August 19, 2019 compliance date; and the second phase for entities seeking provisional registration on or after the August 19, 2019 compliance date. An entity seeking preliminary registration under the first phase was required to submit to the Bureau an initial application for preliminary approval for registration by April 16, 2018. After receiving preliminary approval from the Bureau, the entity must submit its application for registration within 120 days from the date preliminary approval was granted. See 12 CFR 1041.11(c).

period that the loan is an outstanding loan, and when the loan ceases to be an outstanding loan.¹⁴

B. Subsequent Actions

As noted above, on January 16, 2018, the Bureau issued a statement announcing its intention to engage in rulemaking to reconsider the 2017 Final Rule. In addition, the statement notified entities seeking to become RISEs that the Bureau would entertain requests to waive entities' preliminary approval application deadline.¹⁵ Since that time, the Bureau has issued several waivers and published copies of those waivers on its website.¹⁶ On October 26, 2018, the Bureau issued a subsequent statement announcing that it expected to issue NPRMs to reconsider certain provisions of the 2017 Final Rule and to address the Rule's compliance date.¹⁷

On April 9, 2018, a legal challenge to the 2017 Final Rule was filed in the United States District Court for the Western District of Texas.¹⁸ On June 12, 2018, the court issued an order staying the litigation.¹⁹ On November 6, 2018, the court stayed the August 19, 2019 compliance date of the 2017 Final Rule until further order of the court.²⁰

C. Compliance Date Delay Proposal

As noted above, on February 6, 2019, the Bureau issued the Reconsideration NPRM seeking comment on the Bureau's proposal to rescind the Mandatory Underwriting Provisions of the 2017 Final Rule and the Delay NPRM seeking comment on the Bureau's proposal to delay the compliance date for those provisions. The Bureau stated in its Delay NPRM that it preliminarily believed it had set forth strong reasons for proposing to rescind the Mandatory Underwriting Provisions of the Rule, as detailed in the

¹⁴ See 12 CFR 1041.10(c).

¹⁵ Bureau of Consumer Fin. Prot., *Statement on Payday Rule* (Jan. 16, 2018), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-statement-payday-rule/>.

¹⁶ See Bureau of Consumer Fin. Prot., *Payday, Vehicle Title, and Certain High-Cost Installment Loans Registered Information Systems registration program—Waiver requests and Bureau determinations*, <https://www.consumerfinance.gov/policy-compliance/guidance/payday-loans-registered-information-systems-registration-program/registered-information-systems/#waivers>. As of June 5, 2019, there are no information systems registered with the Bureau.

¹⁷ Bureau of Consumer Fin. Prot., *Public Statement Regarding Payday Rule Reconsideration and Delay of Compliance Date* (Oct. 26, 2018), <https://www.consumerfinance.gov/about-us/newsroom/public-statement-regarding-payday-rule-reconsideration-and-delay-compliance-date/>.

¹⁸ *Cnty. Fin. Serv. Ass'n of Am. v. Consumer Fin. Prot. Bureau*, No. 1:18-cv-295 (W.D. Tex.).

¹⁹ See *id.*, ECF No. 29.

²⁰ See *id.*, ECF No. 53.

Reconsideration NPRM. The Bureau was concerned that mandating compliance by August 19, 2019 with portions of the Rule that the Bureau had good reasons to believe should be rescinded would impose significant and potentially unwarranted costs on industry participants, create substantial revenue disruptions that could impact the ability of some market participants to stay in business, and restrict access to consumer credit. The Bureau preliminarily believed, based on its experience developing the 2017 Final Rule and other similar rulemakings, that a compliance date of November 19, 2020 would allow the Bureau adequate opportunity to review comments on its Reconsideration NPRM regarding the Mandatory Underwriting Provisions and to make any changes to those provisions before affected entities incurred significant costs that would impair their ability to remain in business and before consumers experienced a restriction in their ability to choose the credit they prefer.

D. Compliance Date Delay Final Rule

For the reasons set forth herein and based on comments received, the Bureau is issuing this final rule to delay the August 19, 2019 compliance date for the Mandatory Underwriting Provisions of the 2017 Final Rule—specifically, §§ 1041.4 through 1041.6, 1041.10, and 1041.12(b)(1) through (3)²¹—to November 19, 2020, to permit an orderly conclusion to its separate rulemaking process to reconsider the Mandatory Underwriting Provisions of the 2017 Final Rule.²² The Bureau is making conforming amendments to certain regulatory text and commentary adopted in the 2017 Final Rule to reflect the compliance date delay as well as supplementing the Rule with an additional section (§ 1041.15) setting forth in detail its effective and compliance dates.

The Bureau is also making certain corrections to address several clerical and non-substantive errors it has identified in the 2017 Final Rule in §§ 1041.2(a)(9), 1041.3(e)(2), 1041.9(c)(3)(viii), and appendix A. No

substantive change is intended by these corrections.

III. Summary of the Rulemaking Process, Comments Received, and the Final Rule

As noted above, the Bureau proposed to delay the compliance date for the 2017 Final Rule's Mandatory Underwriting Provisions for several reasons. As explained in more detail below, the Bureau now concludes that it is appropriate to delay the August 19, 2019 compliance date for the Mandatory Underwriting Provisions of the 2017 Final Rule—specifically, §§ 1041.4 through 1041.6, 1041.10, and 1041.12(b)(1) through (3)—to November 19, 2020.

In short, after reviewing all comments received on the Delay NPRM, the Bureau has determined that finalizing the proposed delay is appropriate because there are strong reasons for rescinding the Mandatory Underwriting Provisions of the 2017 Final Rule and because significant and potentially unwarranted consequences to covered entities, consumers, and the market would occur if compliance with those aspects of the Rule was required by August 19, 2019. In addition, the Bureau has concluded that 15 months is an adequate amount of time to allow the Bureau to complete its reconsideration rulemaking. First, there are strong reasons to reconsider the evidentiary and legal bases for the unfairness and abusiveness findings underlying the Mandatory Underwriting Provisions of the 2017 Final Rule. The Bureau has initiated the process for reconsidering those provisions by issuing the Reconsideration NPRM, which sets forth in detail the Bureau's reasons for proposing to rescind the Mandatory Underwriting Provisions. After considering all the comments received on the Delay NPRM and with an open mind on all issues to be decided in the Reconsideration NPRM, the Bureau concludes that for purposes of this final rule there are strong reasons to rescind the Mandatory Underwriting Provisions.

Second, the Bureau concludes that if compliance were to become mandatory while the reconsideration rulemaking is ongoing, several significant and potentially unwarranted consequences would likely result, including significant compliance costs, the potential exit of some smaller providers, and restricted access to consumer credit. Those consequences would risk undermining effective reconsideration of the Rule by imposing potentially market-altering effects, some of which may be irreversible if the Bureau required compliance with the

Mandatory Underwriting Provisions and then later rescinded them. The Bureau is particularly concerned that some smaller providers may permanently exit the market if they are required to comply with the Mandatory Underwriting Provisions while reconsideration is ongoing.

In light of these considerations, the Bureau concludes that it is appropriate to delay the compliance date for 15 months to allow time for the Reconsideration NPRM rulemaking process that the Bureau has initiated—and through which the Bureau has received approximately 190,000 comments—to be completed.

A. Comments Received, Generally

The comment period on the Delay NPRM closed on March 18, 2019. The Bureau received approximately 150 comment letters from individuals, consumer advocacy groups, a group of State attorneys general, depository and non-depository lenders, tribal governments, national and regional trade associations, service providers, the Small Business Administration's Office of Advocacy (SBA OA), legislative and executive branch State government officials, and others.²³

Commenters writing in support of the proposed delay included lenders, trade associations, tribal governments, the SBA OA, individual commenters, and others. Some of these commenters also expressed their support for rescission of the Mandatory Underwriting Provisions as proposed in the Reconsideration NPRM. Commenters writing in opposition to the proposed delay included a number of consumer advocacy groups, a group of State attorneys general, legislative and executive branch State government officials, individual commenters, and others. Some of these commenters also expressed their opposition to the rescission of the Mandatory Underwriting Provisions as proposed in the Reconsideration NPRM.

These comments are discussed in more detail below. At a high level, comments in support of the proposed delay generally spoke to harms to industry and to consumers that the commenters asserted would occur if the August 19, 2019 compliance date for the Mandatory Underwriting Provisions stayed in place and that would be postponed if those provisions were delayed. These comments also argued that a delay was appropriate to give the

²¹ As discussed below, although § 1041.11 is part of the Mandatory Underwriting Provisions of the Rule, its operative date was January 16, 2018, which the Bureau is not changing.

²² In addition, as described in the Delay NPRM, outreach to affected entities since the finalization of the 2017 Final Rule had brought to light certain potential obstacles to compliance that were not anticipated when the original compliance date was set; these concerns were echoed by some commenters on the Delay NPRM. However, as discussed in more detail below, the Bureau is not finalizing this compliance date delay on those grounds.

²³ These comment letters, as well as summaries of any ex parte presentations regarding this rulemaking, are available on the public docket for the rulemaking at <https://www.regulations.gov/docket?D=CFPB-2019-0007>.

Bureau time to complete its process of reconsidering the Mandatory Underwriting Provisions. Comments focusing on the merits of the Mandatory Underwriting Provisions themselves more generally also claimed that there were flaws in the Rule, the data underlying the Rule, or the rulemaking process. Some comments also discussed individual consumers' positive experiences with payday or vehicle title loans.

Commenters opposing the proposed delay generally spoke to the consumer harms that they asserted occur with loans covered by those provisions. These commenters also focused on the bad practices in which they alleged lenders engage. Commenters in addition raised issues such as requirements under the Administrative Procedure Act for compliance date delays and the Bureau's authority to delay the compliance date of the Rule.

Commenters focusing on the merits of the Mandatory Underwriting Provisions also more generally referenced, for example, the Bureau's prior research and evidence in this area, and discussed the interaction of Federal protections with those offered by the States.

Commenters, both supporting and opposing the delay, addressed the Bureau's proposed rationales for delaying the compliance date of the Mandatory Underwriting Provisions. Specifically, the comments offered views on the Bureau's preliminary conclusion that there are strong reasons for rescinding the Mandatory Underwriting Provisions. They also offered views on the unanticipated obstacles to compliance that came to light after publication of the 2017 Final Rule, as discussed in the Delay NPRM. Commenters also responded to the Bureau's specific solicitations for comment, which included seeking comment on: (1) What challenges industry would face in complying with the Mandatory Underwriting Provisions by August 19, 2019; (2) whether delaying the Mandatory Underwriting Provisions would have any crossover effects on implementation of the Payment Provisions; (3) whether delaying the compliance date for the Mandatory Underwriting Provisions would be better than not delaying the date for purposes of facilitating an orderly implementation period for the Rule; (4) the consequences of not delaying the Mandatory Underwriting Provisions; and (5) the impact of the proposed delay on consumers who use payday loans, vehicle title loans, and high-cost installment loans covered by the 2017 Final Rule.

Commenters also raised a number of issues that were outside the scope of the Delay NPRM. These comments are summarized in part III.D.6 below.

B. Grounds for Finalizing the Compliance Date Delay

1. Strong Reasons Support Reconsideration of the Mandatory Underwriting Provisions

A key predicate for the proposed compliance date delay was, as noted above, that the Bureau preliminarily believed that the Mandatory Underwriting Provisions of the 2017 Final Rule should be rescinded and had separately issued the Reconsideration NPRM seeking comment on whether it should rescind those provisions. As explained in the Delay NPRM, delaying the August 19, 2019 compliance date for the Mandatory Underwriting Provisions will give the Bureau the opportunity to review comments on the Reconsideration NPRM and to make any changes to those provisions before compliance with the Mandatory Underwriting Provisions causes a series of potentially market-altering effects, some of which may be irreversible for the smaller storefront lenders that permanently exit the market, that the Bureau has strong reasons to believe may prove unwarranted.

After reviewing the comments received, the Bureau concludes that there are strong reasons, on multiple grounds, to revisit the unfairness and abusiveness findings set out in the Mandatory Underwriting Provisions in the 2017 Final Rule. The Bureau initiated the process for reconsidering these specific unfairness and abusiveness findings by issuing the Reconsideration NPRM, which set forth in detail the Bureau's reasons for proposing to rescind the Mandatory Underwriting Provisions.

The Reconsideration NPRM proposed multiple independent grounds for rescinding the Mandatory Underwriting Provisions. First, the Reconsideration NPRM identified specific concerns with the adequacy of the evidence underpinning the reasonable avoidability element of the unfairness finding, and the lack of understanding and inability to protect elements of the abusiveness finding of the Mandatory Underwriting Provisions.²⁴ The Reconsideration NPRM identified limitations to certain pieces of evidence, especially a key study by Professor Ronald Mann, that the 2017 Final Rule relied upon in determining that injury associated with short-term and longer-

term balloon-payment loans issued without the lenders having reasonably determined a borrower's ability to repay was not reasonably avoidable and evinced a lack of consumer understanding.²⁵ The Reconsideration NPRM also identified a number of concerns with the weight the 2017 Final Rule placed on a key study by the Pew Charitable Trusts in finding an inability of consumers to protect themselves from covered short-term and longer-term balloon-payment loans issued without the lenders having reasonably determined a borrower's ability to repay.²⁶ The Bureau noted in the Reconsideration NPRM that it is prudent as a policy matter to require a more robust and reliable evidentiary basis to support key findings in a rule that would significantly diminish the market for covered short-term and longer-term balloon-payment loans and that would likely cause some smaller providers to exit the marketplace, resulting in a decrease in consumers' ability to choose the credit they prefer.²⁷

Second, the Reconsideration NPRM identified concerns with the legal analysis in the Mandatory Underwriting Provisions of the 2017 Final Rule, specifically the application of statutory standards regarding two elements of unfairness, reasonable avoidability and countervailing benefits, and two elements of abusiveness, lack of understanding and unreasonable advantage-taking.²⁸ The Reconsideration NPRM preliminarily found that, even assuming that the factual findings in the 2017 Final Rule were correct and sufficiently supported, those findings did not establish that consumers could not reasonably avoid harm under a better interpretation of the unfairness standard in section 1031(c)(1) of the Dodd-Frank Act, informed by relevant longstanding precedent on reasonable avoidability under section 5 of the Federal Trade Commission Act. In particular, the Reconsideration NPRM preliminarily concluded that the 2017 Final Rule imposed what the Bureau now preliminarily believes was a problematic standard that required consumers to have a specific understanding of their individualized risk as determined by their ability to predict how long they will be in debt after taking out a covered short-term or longer-term balloon-payment loan. The Reconsideration NPRM also made similar preliminary conclusions as to

²⁵ *Id.* at 4265–66.

²⁶ *Id.* at 4267–68.

²⁷ *Id.* at 4264.

²⁸ *Id.* at 4268–76.

²⁴ 84 FR 4252, 4264–68.

the way the 2017 Final Rule interpreted lack of understanding under section 1031(d)(2)(A) of the Dodd-Frank Act.²⁹ The Reconsideration NPRM further preliminarily concluded that the 2017 Final Rule's application of the countervailing benefits element of the unfairness standard in section 1031(c)(1) of the Dodd-Frank Act did not consider the full countervailing benefits of the practice at issue; rather, the 2017 Final Rule discounted those benefits by taking into account the additional credit that would be available under the 2017 Final Rule's principle step-down exemption. The Bureau preliminarily found that, when fully accounted for, the countervailing benefits of the identified practice outweighed any relevant injury to consumers.³⁰ Finally, the Reconsideration NPRM preliminarily concluded that the 2017 Final Rule did not have a sufficient basis to conclude that by making covered short-term or longer-term balloon-payment loans without assessing consumers' ability to repay lenders take unreasonable advantage of consumers under the abusiveness provision of the Dodd-Frank Act.³¹

Commenters, as set out in detail below, took issue with some of the proposed grounds for rescinding the Mandatory Underwriting Provision of the 2017 Final Rule, or generally praised or criticized the approach the Bureau took in making unfairness and abusiveness findings in the 2017 Final Rule. Commenters opposed to the compliance date delay offered some generalized criticisms of the Bureau's proposed legal conclusions, asserting that they were problematic, without offering detailed explanations of statutory text or specific issues with the approach to interpreting unfairness and abusiveness in the Reconsideration NPRM. These commenters offered more details in their criticism of the Reconsideration NPRM's reassessment of the evidentiary support for the 2017 Final Rule's factual findings, although still not with great specificity.

Some commenters asserted generally that the Bureau did not offer a compelling basis for repealing the Mandatory Underwriting Provisions. Consumer advocacy groups and a group of State attorneys general asserted that the compliance date should remain unchanged because the 2017 Final Rule came to the correct legal and factual conclusions regarding the Mandatory Underwriting Provisions, which should

be implemented without further delay. These State attorneys general and consumer advocacy groups also commented that the Bureau did not offer strong reasons in the Reconsideration NPRM or the Delay NPRM for proposing to rescind those provisions.

Consumer advocacy groups asserted that the Bureau failed to provide a reasoned explanation for its new position in the Reconsideration NPRM by neglecting large amounts of evidence concerning the serious impact on vulnerable consumers that underlay the 2017 Final Rule. Another consumer advocacy group claimed that the Bureau's rationale for reconsidering the Mandatory Underwriting Provisions contradicted years of original Bureau research, data, consumer complaints, secondary research, and other sources of evidence demonstrating consumer harm and impacts, and that the Bureau failed to provide a reasoned explanation for dismissing such evidence. A consumer advocacy group argued that the Reconsideration NPRM downplays much of this information to focus on critiquing two studies, and that in doing so the Bureau was attempting to rationalize a policy result that it had already chosen.

Trade associations, lenders, and service providers commented that the Mandatory Underwriting Provisions were based on flawed data and one-sided studies, which resulted in faulty conclusions. A service provider agreed with the concerns set out in the Bureau's Reconsideration NPRM as to the flaws in the rulemaking process for the 2017 Final Rule. A trade association and a tribal government agreed with the Bureau that the 2017 Final Rule was not supported by sufficiently robust and reliable evidence.

One consumer advocacy group commented that the Delay NPRM does not provide compelling factual reasons to cast serious doubt on the Mandatory Underwriting Provisions of the 2017 Final Rule, which, it claimed, were thoroughly vetted when finalized. Specifically, the consumer advocacy group asserted that the Bureau in the Reconsideration NPRM questioned the validity of just two studies, taken from a vast body of material underlying the 2017 Final Rule, offered a new interpretation of this existing evidence, and conceded that new, additional evidence could support the older findings from the 2017 Final Rule. The commenter argued that it was arbitrary and capricious for the Bureau to assert that the 2017 Final Rule must be rescinded, as it did in the Reconsideration NPRM, when it could

conduct further research and analysis to resolve evidentiary gaps.

A group of State attorneys general and consumer advocacy groups generally commented that the Bureau correctly analyzed and applied the unfairness and abusiveness standards in promulgating the Mandatory Underwriting Provisions of the 2017 Final Rule. These groups emphasized the extensive rulemaking record of the 2017 Final Rule, spanning many years, 1.4 million comments, and input from many stakeholders. These groups further asserted that the rulemaking record in the 2017 Final Rule detailed serious harm to consumers that would occur absent the Mandatory Underwriting Provisions. A consumer advocacy group asserted that the Mandatory Underwriting Provisions were precisely the type of measure that Congress designed the Bureau to create, and that in the Dodd-Frank Act, Congress identified protecting consumers from unfair, deceptive, and abusive acts and practices as a core objective of the Bureau. Further, the commenter noted that Congress singled out payday loans for special attention, providing the Bureau exclusive authority to conduct supervisory examinations of any provider that "offers or provides to a consumer a payday loan."³² Other consumer advocacy groups asserted in general terms that the Reconsideration NPRM mischaracterized the legal analysis of unfairness and abusiveness in the 2017 Final Rule, and that the legal analysis in the Reconsideration NPRM of unfairness and abusiveness was inconsistent with Federal Trade Commission precedent, Federal Reserve Board precedent, and Congressional intent.

Consumer advocacy groups and the group of State attorneys general emphasized the previous findings of consumer harm set out in the analyses of the 2017 Final Rule, quoting from the 2017 Final Rule and other contemporaneous research. One consumer advocacy group provided case studies of individuals and families whom payday and title loans had affected.

Lenders, trade associations, and an attorney to lenders commented that in the 2017 Final Rule, the Bureau misapplied its unfairness and abusiveness authority. These commenters asserted that, rather than identifying and prohibiting specific practices that the Bureau found to be unfair and abusive, the Bureau in the 2017 Final Rule had instead prescribed a single set of mandatory practices under the theory that any other

²⁹ *Id.* at 4274–75.

³⁰ *Id.* at 4272–74.

³¹ *Id.* at 4275–76.

³² Section 1024(a)(1)(E) of the Dodd-Frank Act.

approach was unfair and abusive. Further, a number of trade associations noted that the requirements of the Mandatory Underwriting Provisions are overly burdensome, adding manual processes and verification of data that consumer loans do not ordinarily require. One trade association claimed that the Bureau exceeded its unfairness and abusiveness authority in the 2017 Final Rule because it offered no evidence to support the sweeping legal conclusion that all alternative underwriting approaches other than the one set out in § 1041.5 would be unfair or abusive. Lenders and trade associations commented that the Bureau, in developing the Mandatory Underwriting Provisions, failed to consider alternative and less burdensome State law approaches to regulating short-term and longer-term balloon-payment loans.

Overall, the Bureau does not agree with the comments that the Bureau did not offer strong reasons, or reasoned explanations, for proposing to rescind the Mandatory Underwriting Provisions. The Bureau identified multiple, independent, and specific evidentiary and legal grounds addressing specific elements of unfairness and abusiveness that would, if finalized, result in the rescission of the unfairness and abusiveness findings in § 1041.4 of the 2017 Final Rule and, as a result, would also require the rescission of the Mandatory Underwriting Provisions predicated on § 1041.4.

The Bureau further disagrees with the commenters who asserted that the Delay NPRM or the Reconsideration NPRM ignored a large body of evidence considered in conjunction with the 2017 Final Rule. The Reconsideration NPRM challenged the sufficiency and weight given to certain linchpin pieces of evidence, without which the Bureau preliminarily believes that the factual findings on which the Mandatory Underwriting Provisions are based cannot stand. The Delay NPRM, in turn, relied on the strong reasons for rescinding the 2017 Final Rule set out in the Reconsideration NPRM. The Bureau's preliminary conclusions in the Reconsideration NPRM and its assessment of the Reconsideration NPRM here for purposes of this delay final rule are based on both the existence of the complete body of evidence included in the 2017 Final Rule and its preliminary belief that certain linchpin evidence is not sufficiently robust and representative.

The Bureau recognizes that the comments of the consumer advocacy groups reflect strong disagreement with the substance of the Reconsideration

NPRM, but the Bureau believes that, whatever the ultimate merit of those arguments is found to be, those arguments do not negate the fact that the Bureau has articulated strong reasons for revisiting the Mandatory Underwriting Provisions. Commenters did not offer specific reasons why the analyses of the limitations of a study by Professor Ronald Mann (Mann Study)³³ and a survey of payday borrowers conducted by the Pew Charitable Trusts (Pew Study),³⁴ as set out in the Reconsideration NPRM, were flawed, nor did they otherwise present concrete arguments that change the Bureau's assessment of the strength of the concerns expressed in the Reconsideration NPRM regarding that evidence. The Bureau does not agree with the comment that it was arbitrary and capricious of the Bureau not to conduct further research and analysis to resolve any evidentiary gaps. The Bureau noted in the Reconsideration NPRM that resolving the issues raised in that proposal pertaining to reasonable avoidability and to the inability of consumers to protect their interests would take significant resources and could not be accomplished in a timely and cost-effective manner. The Bureau does not foreclose the possibility of conducting additional research farther in the future.

The Bureau notes that the comments that defended the reasoning of the 2017 Final Rule did not call into question the precise grounds on which the Bureau based its Delay NPRM—that is, its preliminary determination that it had strong reasons for believing that the evidence underlying the identification of the unfair and abusive practice in the Mandatory Underwriting Provisions of the 2017 Final Rule was not sufficiently robust and reliable, and that its approach to unfairness and abusiveness should be revisited. Commenters did not identify new or other research not previously considered by the Bureau that undermine the preliminary determinations the Bureau made in the Reconsideration NPRM that, in turn, were the basis for the Bureau's Delay NPRM. Nor did commenters challenge the Bureau's preliminary policy decision, whatever the merits of the linchpin evidence, to require more robust and reliable evidence in the face of a regulation likely to cause widespread disruption in the payday

market, including the exit of some lenders and a reduction in consumers' ability to choose the credit they prefer. The Bureau also notes that, contrary to the views of some commenters, it did, in fact, consider alternative State law approaches in its 2017 Final Rule, and the Bureau does not agree that the Final Rule was devoid of evidence to support the Mandatory Underwriting Provisions; but, as explained above, the Bureau is reconsidering those provisions because it is concerned that the evidence was not sufficiently robust and reliable in light of the significant effects that would be caused by the Mandatory Underwriting Provisions.

The commenters' criticisms of the legal grounds the Bureau set out in the Reconsideration NPRM for proposing to rescind the Mandatory Underwriting Provisions have not convinced the Bureau that it was mistaken in its preliminary view that the grounds for rescinding the Mandatory Underwriting Provisions are strong. The State attorneys general and consumer advocacy groups did not present detailed comments on the specific legal analyses of the elements of unfairness and abusiveness that the Reconsideration NPRM addressed—reasonable avoidability and countervailing benefits in analyzing unfairness, and lack of understanding and unreasonable advantage-taking in analyzing abusiveness—and the general criticisms offered have not changed the Bureau's preliminary assessment of the strength of its Reconsideration NPRM for purposes of delay.

To finalize the Delay NPRM the Bureau does not, and need not, finalize its determination as to its proposed reconsideration of the unfairness and abusiveness conclusions set out in the 2017 Final Rule. The Bureau here concludes only that, in light of the consequences that would result if the compliance date became mandatory as discussed below, the Reconsideration NPRM raised sufficiently strong reasons to justify finalizing the Bureau's proposal to delay the compliance date for the Mandatory Underwriting provisions—enough time to consider the approximately 190,000 comments that have been received in that proceeding and decide how to respond to them. The Bureau remains open to the possibility that those comments may reveal other data, research, or arguments to confirm or refute the Bureau's proposed reconsideration of the unfairness and abusiveness findings of the Mandatory Underwriting Provisions in the 2017 Final Rule. The Bureau, however, will make that determination in the context of the Reconsideration NPRM.

³³ Ronald Mann, *Assessing the Optimism of Payday Loan Borrowers*, 21 *Supreme Court Econ. Rev.* 105 (2013).

³⁴ Pew Charitable Trusts, *How Borrowers Choose and Repay Payday Loans* (2013), [https://www.pewtrusts.org/-/media/assets/2013/02/20/pew_choosing_borrowing_payday_feb2013-\(1\).pdf](https://www.pewtrusts.org/-/media/assets/2013/02/20/pew_choosing_borrowing_payday_feb2013-(1).pdf).

2. Disruption to Short-Term and Longer-Term Balloon-Payment Lending

In the 2017 Final Rule, the Bureau had estimated that the Mandatory Underwriting Provisions would result in an annual loss of revenue for payday lenders of between \$3.4 billion and \$3.6 billion and an annual loss of between \$3.9 billion and \$4.1 billion for vehicle title lenders.³⁵ This represents between 62 percent and 68 percent of payday loan revenue during this period and virtually all of the revenue of short-term vehicle title lenders. Based on this finding, the Delay NPRM estimated that a 15-month delay of the compliance date for the Mandatory Underwriting Provisions would avert losses in revenues for the payday industry of between \$4.25 billion and \$4.5 billion, and losses in revenues for the title lending industry of \$4.9 billion and \$5.1 billion, compared to the baseline of the provisions going into effect in August 2019.³⁶

The Delay NPRM stated that revenue losses of this magnitude could cause some smaller providers to exit the market and lead larger participants to consolidate their operations or make other fundamental changes to their businesses. The Delay NPRM further stated that these disruptions could have negative impacts on consumers, including restricting consumers' ability to choose the credit they prefer. The Bureau explained that it preliminarily believed that it was appropriate to avoid these potentially market-altering effects that would be associated with preparing for and complying with the Mandatory Underwriting Provisions in light of what the Bureau believed were strong reasons for revisiting the unfairness and abusiveness determinations underlying those provisions.³⁷

Commenters for the most part did not dispute that the Mandatory Underwriting Provisions, once in force, would have the effects on lenders described in the 2017 Final Rule. Some commenters, as set out below, suggested that the Bureau's 2017 Final Rule understated the impact on industry of the Mandatory Underwriting Provisions.

Lenders and trade associations expressed their agreement with the rationale for the proposed delay in the Delay NPRM. Lenders, a trade association, a business advocacy group,

and an attorney for lenders stated that if compliance with the Mandatory Underwriting Provisions was required in August 2019, many lenders would go out of business and would likely not return to operating even if those provisions were later rescinded. Lenders, a trade association, and a credit reporting agency indicated that lenders would suffer unrecoverable losses and long-term consequences even if compliance with the Mandatory Underwriting Provisions were only required from August 2019 until the provisions were rescinded. A trade association asserted that it would be arbitrary and capricious to require temporary compliance with the Mandatory Underwriting Provisions if the provisions were fundamentally flawed at the outset.

A trade association and a law firm commented that lenders should not be required to comply with a rule that is likely to be rescinded. A lender and trade association further noted that if lenders were forced to switch underwriting practices back and forth over a short period of time because compliance with the Mandatory Underwriting Provisions was required and then those provisions were rescinded, lenders would face unnecessary costs and that consumers would be significantly confused regarding whether they and the lenders are able to enter into transactions that both think are in their interest. The trade association also noted that the Mandatory Underwriting Provisions would have a negative impact on competition among payday lenders.

Lenders, trade associations, and a tribal government commented that to the extent that lenders did not go out of business, the Mandatory Underwriting Provisions would significantly reduce revenues from lending operations, and that the proposed delay would protect businesses from revenue disruption. Lenders stated that to the extent that they did not go out of business, many of them would be forced to consolidate their operations or make other fundamental changes as a result of the Mandatory Underwriting Provisions. A credit reporting agency noted that any increase in costs to lenders as a result of efforts to comply with the Mandatory Underwriting Provisions would simply be passed on to consumers.

Lenders and trade associations noted that if finalized, the Delay NPRM would help lenders avoid injuries from any temporary disruptions as the Bureau contemplates revising the 2017 Final Rule. Lenders asserted that significant costs and work hours would go into complying with the Mandatory

Underwriting Provisions by August 19, 2019, but that these costs and hours would not be recouped if the Bureau later rescinded these provisions. Lenders stated that the Delay NPRM was a reasonable and practical approach to avoid requiring small businesses to incur large and potentially unnecessary costs while the Bureau reconsiders the Mandatory Underwriting Provisions.

A tribal government noted that the Mandatory Underwriting Provisions would cause providers to close, resulting in unemployment, lost payroll, and property taxes.

Industry commenters, trade associations, a business advocacy group, a consumer advocacy group, and an attorney for lenders also asserted that if compliance with the Mandatory Underwriting Provisions of the 2017 Final Rule was required, millions of consumers would be harmed because they would be denied access to credit and would be forced into inferior and more costly alternatives, including defaulting on other debts and turning to less responsible lenders on less favorable terms. One business advocacy group and a trade association commented that access to small-dollar credit critically supports consumers facing immediate and pressing financial challenges. One trade association noted that in some areas, in particular rural communities, consumers are not served by traditional banks and access to short-term and longer-term balloon-payment products is vital and would be cut off if the compliance date for the 2017 Final Rule were not delayed. One lender claimed that consumers would be forced to turn to expensive, credit-damaging alternatives absent access to short-term and longer-term balloon-payment loans. One trade association asserted that the Bureau should not assign the weight that the 2017 Final Rule did to the interest of protecting consumers as soon as possible.

Consumer advocacy groups, on the other hand, generally commented that injury to industry from not delaying the Mandatory Underwriting Provisions did not outweigh injury to consumers from delaying these provisions. One consumer advocacy group claimed that in the Delay NPRM the Bureau prioritized industry profits over consumer protection and that the protection of industry is not one of the factors the Dodd-Frank Act requires the Bureau to consider in its rulemakings. The same group claimed that the Bureau could not frame its concern over industry profits at the expense of consumers as an attempt to preserve competition because the 2017 Final Rule explained how the Mandatory

³⁵ See 84 FR 4252, 4287.

³⁶ 84 FR 4298, 4303. As explained in the analysis of costs and benefits in part VII below, the estimate of revenue loss for payday lenders assumes that lenders would be able to make loans under the principal step-down exception set forth in § 1041.6. If that was not true during the 15 months at issue here, the revenue impacts would be even greater.

³⁷ *Id.* at 4300.

Underwriting Provisions were consistent with preserving competition. One consumer advocacy group asserted that the Delay NPRM was based on purely anecdotal input on vaguely defined compliance costs and revenue losses. Another consumer advocacy group argued that maintaining the original compliance date for the Mandatory Underwriting Provisions was consistent with maintaining an orderly implementation period.

A coalition of consumer advocacy groups, civil rights groups, religious groups, and community reinvestment groups commented that the Delay NPRM would prolong for 15 months the various harms suffered by consumers receiving loans that would not comply with the Mandatory Underwriting Provisions. These groups asserted that delay would cause a variety of impacts on consumers, including foregoing basic living expenses, vehicle repossession, aggressive debt collection by lenders, health effects (including the physical consequences of emotional distress), and reborrowing costing billions of dollars a year. In asserting the frequency of some of these harms, these commenters cited the Bureau's findings in the 2017 Final Rule. Consumer advocacy groups claimed that the delay of the compliance date for the Mandatory Underwriting Provisions would inflict the above harms particularly on communities of color, older Americans, and those on fixed incomes. Consumer advocacy groups commented that payday and vehicle title loans are debt traps by design, and that the business model for these products is not about providing access to productive credit or bridging short-term financial shortfalls. Consumer advocacy groups commented that the data show that the economic benefits from unaffordable loans are outweighed by the harms caused by the cycle of debt.

A consumer advocacy group commented that, according to the findings in the 2017 Final Rule, the Mandatory Underwriting Provisions would provide substantial benefits to consumers, reducing the harms, identified above, that consumers would otherwise suffer. An individual commenter argued that the Delay NPRM was arbitrary and capricious because it only took into account the costs to industry of complying with the 2017 Final Rule and completely ignored the benefits to consumers that would result from compliance.

Consumer advocacy groups asserted that delay of the Mandatory Underwriting Provisions would cause severe, irreparable harm to consumers,

and that consumers cannot afford to wait an additional 15 months for the relief that the Mandatory Underwriting Provisions would provide. These harms, according to the commenters, would be significantly curbed by the Mandatory Underwriting Provisions, but would continue during the 15 months of the proposed delay, causing many individuals and families to experience long-lasting and spiraling harms.

Consumer advocacy groups noted the Delay NPRM illustrates the magnitude of harm to consumers through its estimate of the benefits of delay to lenders. According to these groups, the Delay NPRM never acknowledges that its estimate of impact on industry is the inverse of its impact on consumers—that is, revenue that the delay would preserve for lenders is an additional expense to consumers. The commenters asserted that a corresponding increase in expenses to consumers is just a single component of the harms caused by unaffordable payday and vehicle title loans, including the risk of falling into debt traps, delinquency and default of loans, bank account closures, repossession of vehicles, and other long-term injuries suffered by consumers. One consumer advocacy group commented that, during the 15 month delay, title lenders would repossess an estimated 425,000 vehicles.

A consumer advocacy group commented that the Bureau's estimates in the Reconsideration NPRM that the Mandatory Underwriting Provisions of the 2017 Final Rule would reduce access to credit were unsubstantiated, and that the Bureau's analysis in the Delay NPRM did not recognize that the majority of consumers would still have access to loans with terms longer than 45 days because of the availability of small installment loans or lines of credit with terms longer than 45 days. Another consumer advocacy group asserted that access to short-term or longer-term balloon-payment loans was not really access to new credit to the borrower or the broader economy, but was really one original unaffordable loan churned over and over again.

The Bureau concludes that delaying the August 19, 2019 compliance date for the Mandatory Underwriting Provisions would prevent industry participants from incurring substantial compliance and implementation costs and would avoid the Mandatory Underwriting Provisions' potentially market-altering effects, some of which may be irreversible, while the Bureau conducts its reconsideration rulemaking. In particular, the Bureau is concerned that some smaller storefront lenders may permanently exit the market if they are

required to comply with the 2017 Final Rule, even if the Rule is later rescinded after the compliance date.³⁸ The Bureau agrees that if compliance with the Mandatory Underwriting Provisions was required in August 2019 lenders would suffer a large and potentially unrecoverable loss of revenue. The cost to industry, according to the estimates set forth in the 2017 Final Rule, would be billions of dollars in lost revenues. If compliance with the Mandatory Underwriting Provisions is required, some smaller lenders would go out of business, to the extent they cannot earn sufficient revenues and profits from other products or could not otherwise timely adapt, which would result in fewer payday storefronts as a result. The 2017 Final Rule itself acknowledges that one anticipated impact of Mandatory Underwriting Provisions would be a large contraction in the number of payday storefronts consistent with the predicted 62 to 68 percent decline in loan revenue.³⁹ These disruptions would likely result at least in the short-term in a significant contraction of the market for payday loans and the near elimination of the market for vehicle title loans before the Bureau had an opportunity to complete its reconsideration of the 2017 Final Rule. Further, given high fixed costs in the vehicle title lending market, some participants may not return to offering vehicle title loans if the Mandatory Underwriting Provisions were rescinded. If the Bureau does not delay the August 2019 compliance date and ultimately rescinds the Mandatory Underwriting Provisions after that date, there is a risk that the affected markets would not return to the status quo. There may be fewer competitors and less competition in the affected markets after a short period of required

³⁸ The Bureau acknowledges that storefront lenders are already experiencing competitive pressures from online lending and multi-pay products. See, e.g., John Hecht, *State of the Industry: Innovating and Adapting Amongst a Complex Backdrop* (Jefferies Group LLC slide presentation, Mar. 20, 2019) (on file); Press Release, TransUnion, *Lenders Extending More Loans to Subprime Consumers as Credit Market Continues to Exhibit Signs of Strength: Q3 2018 TransUnion Industry Insights Report features latest consumer credit trends* (Nov. 15, 2018), <https://newsroom.transunion.com/lenders-extending-more-loans-to-subprime-consumers--as-credit-market-continues-to-exhibit-signs-of-strength/>.

³⁹ 82 FR 54472, 54835 (“To the extent that lenders cannot replace reductions in revenue by adapting their products and practices, Bureau research suggests that the ultimate net reduction in revenue will likely lead to contractions of storefronts of a similar magnitude, at least for stores that do not have substantial revenue from other lines of business, such as check cashing and selling money orders.”); *id.* at 54827.

compliance with the Mandatory Underwriting Provisions.

Lenders that survived the impact of the Mandatory Underwriting Provisions of the 2017 Final Rule would incur, as predicted by the Rule itself, a number of operational costs from the large number of specific requirements set out by the provisions of § 1041.5, including building systems to verify income, estimate a borrower's living expenses, and project a potential borrower's residual income or debt-to-income ratio. If lenders had the option instead to make loans under § 1041.6, they still would need to establish systems for obtaining reports from a national consumer reporting agency and systems for furnishing to, and obtaining reports from, an RIS.⁴⁰

The immediate contraction of the market that would likely result if compliance with the Rule became mandatory would, in turn, result in a reduction in access to credit for consumers. The Bureau notes, for example, that the 2017 Final Rule found that the Mandatory Underwriting Provisions would prevent some consumers from obtaining a payday loan (*i.e.*, those consumers who exhausted their ability to obtain principal step-down loans and could not qualify for an ability-to-repay loan) and would prevent substantially all consumers from obtaining vehicle title loans, which are typically for larger amounts than payday loans and available to consumers who do not have a checking account. At a minimum, those consumers would be forced to choose a different form of credit regardless of their preference.⁴¹ The 2017 Final Rule further found that the Mandatory Underwriting Provisions would disrupt to some extent access to payday loans in certain geographical areas, especially in rural areas. The Rule also found that the Mandatory Underwriting Provisions would impact consumers who prefer to repay a payday loan over more than three pay periods from making that choice. Delaying the compliance date will delay all of the consequences described above until the Bureau is able to resolve the question of whether there are evidentiary or legal grounds for rescinding the Mandatory Underwriting Provisions.

The Bureau disagrees with commenters who argued that the Delay NPRM's predictions regarding access to credit were "unsubstantiated." As

established above, the Delay NPRM's estimates of changes in access to credit attributable to the proposed delay were based on information from the 2017 Final Rule as analyzed by the Reconsideration NPRM.⁴²

At the same time, the Bureau acknowledges that for some consumers there could be adverse and potentially long-lasting consequences from delaying the compliance date for the Mandatory Underwriting Provisions. Specifically, the 2017 Final Rule found that the act or practice of making covered short-term and balloon-payment loans without assessing the consumers' ability to repay causes or is likely to cause substantial injury to consumers—principally in the form of unanticipated and repeated reborrowing—and that the Mandatory Underwriting Provisions would have the effect of preventing that injury.⁴³ The Reconsideration and Delay NPRMs accepted that finding, but emphasized that the finding does not reflect the Bureau's concerns that such injury may not constitute an unfair or abusive practice under applicable law because consumers could reasonably avoid it and understood the material risks of such harm.⁴⁴ The Reconsideration and Delay NPRMs likewise took as a given that the 2017 Final Rule had concluded that "the overall impacts of the decreased loan volume resulting from the 2017 Final Rule's Mandatory Underwriting Provisions on consumers would be positive," and therefore it follows that "inverse effects would ensue, relative to the chosen baseline, from this proposal to rescind the 2017 Final Rule."⁴⁵ The Bureau, however, also specifically emphasized that "the 2017 Final Rule's conclusion as to these effects was dependent upon the evidence that consumers who experienced long durations of indebtedness generally did not

⁴² 84 FR 4298, 4302–03.

⁴³ Lenders and trade associations commented that the 2017 Final Rule failed to provide evidence of consumer harm or substantial injury based on existing offerings of short-term and longer-term balloon-payment loans. A trade association noted that, contrary to the assumptions advanced in the 2017 Final Rule, payday loans and loan sequences benefit consumers; the trade association also noted that the high costs of such loans, without more, do not speak to consumer harm. The trade association further commented that the Bureau had failed to attempt to perform a consumer-focused analysis to determine what value borrowers receive from payday loan sequences. The Bureau is not reconsidering the finding of the 2017 Final Rule with respect to substantial injury for purposes of this rulemaking, but rather is questioning whether that injury is the result of unfair or abusive practices that justify Bureau intervention that would disrupt the market and displace consumer choice.

⁴⁴ 84 FR 4252, 4269–71, 4275.

⁴⁵ *Id.* at 4285.

anticipate these outcomes and . . . the agency now believes that this evidence is not sufficiently robust and representative to support the findings necessary to determine that the identified practice is unfair and abusive."⁴⁶ Contrary to the suggestion of commenters, the Bureau is not ignoring the referenced findings of the 2017 Final Rule.

However, for the reasons explained above, the Bureau has concluded that it has strong reasons to believe that those consequences are not the result of unfair or abusive practices that justify Bureau intervention that would disrupt the market and displace consumer choice. Regardless of whether the Bureau ultimately decides to rescind the Mandatory Underwriting Provisions, the Bureau now concludes that the proposed delay is appropriate based on the Bureau's present assessment of the strength of the Reconsideration NPRM and the nature and magnitude of the consequences that would follow if compliance became mandatory before the Bureau had an opportunity to conclude the reconsideration rulemaking. The Bureau believes that the Delay NPRM should be finalized to give the Bureau time to consider fully whether it should rescind provisions that may cause potentially market-altering effects, some of which may be irreversible, before those effects occur. Absent such delay, the Bureau's ability to reconsider the Mandatory Underwriting Provisions could, as a practical matter, be compromised.

The Bureau disagrees with the comment suggesting that its analysis of competition was a pretext for its concern over industry profits. The Bureau is concerned about effects on industry revenue and profits only to the extent that they, in turn, have an effect on competition among lenders and on consumers' ability to access credit of the type and on the terms they prefer. The Bureau also disagrees with the comment that the Delay NPRM only vaguely or anecdotally defined the impact of the 2017 Final Rule on compliance costs and revenue losses. The 2017 Final Rule described in detail the multi-billion dollar impact of the Mandatory Underwriting Provisions on loan volumes and revenues, and the Delay NPRM was based on those findings.

The Bureau also disagrees with the comment that the Delay NPRM should have acknowledged that its estimates of the proposed delay's impact on industry were the inverse of its impact on consumers. The payday lender revenues at issue are the finance charge the

⁴⁶ *Id.*

⁴⁰ See 84 FR 4252, 4286.

⁴¹ Contrary to the assertion of one commenter, the Reconsideration NPRM noted that information from the 2017 Final Rule did acknowledge the possibility that other lender offerings existed and could evolve further in response to the Mandatory Underwriting Provisions. *Id.* at 4285 & n.329.

lender charges the consumer for the use of the lender's money. The finance charges lenders would forego if compliance became mandatory are amounts that consumers would have paid to lenders. However, the consequences that the Bureau is concerned with here are the potentially market-altering effects, some of which may be irreversible, that would result from disrupting these payments and the resulting effects on consumers' access to credit and ability to make their own choices. Given the Bureau's strong reasons for questioning the factual and legal predicates for the Mandatory Underwriting Provisions, the Bureau concludes that it is appropriate to delay those consequences to allow the Bureau to reconsider the Mandatory Underwriting Provisions.

3. Reconsideration Is a Valid Basis for Delay

A number of comments opined on whether reconsideration of a substantive regulation was a valid ground for delaying the compliance date of that regulation. A lender and a consumer advocacy group commented that reconsideration of an existing regulation is an equitable, fair, and sensible reason to delay a compliance date, as the Bureau has proposed to do.

A group of State attorneys general, consumer advocacy groups, and an individual commenter asserted that reconsideration of a rule is not an adequate basis for delay. In making this argument, the consumer advocacy groups cited cases in which courts vacated rules that delayed compliance dates for existing regulations that had not yet gone into effect.

A group of State attorneys general and consumer advocacy groups commented that the Administrative Procedure Act imposes a number of specific procedural requirements on an agency seeking to change its regulation, that an agency must provide reasoned analysis for its decision to change a regulation, and that the required reasoned analysis cannot be avoided by staying the implementation of a final rule. The group of State attorneys general and consumer advocacy groups cited case law for the proposition that a delay of a substantive regulation could not be justified with a less stringent or thorough review than other rulemakings under the Administrative Procedure Act. Finally, the group of State attorneys general asserted that the Bureau cannot use the purported proposed future revision, which has yet to be passed, as a justification for the delay of a regulation, and that a delay must be justified on its own merits. A consumer

advocacy group commented that while agencies regularly reconsider rules, the authority to reconsider rules does not in itself convey to the agency the authority to delay an existing rule. According to the group of State attorneys general, consumer advocacy groups, and an individual, the Delay NPRM fails to satisfy Administrative Procedure Act requirements.

Consumer advocacy groups commented that delaying the Mandatory Underwriting Provisions of the 2017 Final Rule would be tantamount to early adoption of the rescission proposed by the Bureau in its Reconsideration NPRM, and that the Bureau can only rescind the Mandatory Underwriting Provisions by seeking and considering comments on the merits of the reconsideration. A consumer advocacy group asserted that the Delay NPRM assumed the validity and ultimate implementation of the Reconsideration NPRM and that the Bureau was not entitled to assume that the Mandatory Underwriting Provisions would be repealed such that industry compliance with them would be unnecessary, given the flaws in the Reconsideration NPRM. Further, the consumer advocacy group asserted that acting based on flawed assumptions is a cardinal example of arbitrary and capricious rulemaking.

The Bureau believes that if an agency has offered a strong and reasoned basis for reconsideration, and seeks delay to provide for an opportunity for notice and comment on the reconsideration of the underlying regulation before significant costs associated with compliance are incurred, such reconsideration of an existing regulation is an appropriate grounds to delay a compliance date—at least where, as here, there would be potentially market-altering effects, some of which may be irreversible, absent a delay. The Bureau also believes that such a reconsideration of an existing regulation can be an adequate basis for delay and that it has complied with the Administrative Procedure Act requirements for delaying the compliance date of a regulation.

The Bureau understands that agencies must engage in reasoned analysis to support proposed delays. The Bureau has done so here. As set out in the sections above, the Delay NPRM relied on the Bureau's clearly identified rationales for proposing to rescind the Mandatory Underwriting Provisions of the 2017 Final Rule without concluding that it would rescind those provisions. The Delay NPRM further articulated the Bureau's reasons for proposing to postpone the compliance date while the reconsideration rulemaking is moving forward. While many commenters

dispute the rationales set out in the Reconsideration NPRM, the Bureau has articulated them clearly enough that commenters were able to understand the Bureau's preliminary grounds for proposing rescission of the Mandatory Underwriting Provisions and submit responsive comments to help the Bureau decide whether to go forward with the Reconsideration NPRM. The Delay NPRM, in turn, relied upon those preliminary grounds in proposing a limited delay of the compliance date for the Mandatory Underwriting Provisions for purposes of avoiding disruptive and potentially market-altering effects, some of which may be irreversible, while the Bureau reviews comments on the rationales set forth in the Reconsideration NPRM.

The Bureau believes that the compliance date delay is appropriate to allow for meaningful reconsideration of the 2017 Final Rule. Absent such a delay, the Bureau is concerned that the Mandatory Underwriting Provisions could have disruptive and potentially market-altering effects, some of which may be irreversible.⁴⁷ The risk of this outcome is confirmed by the comments received, as set out in part III.B.2, from lenders and trade associations who indicated that they or their members would go out of business permanently if compliance with the Mandatory Underwriting Provisions was required on August 19, 2019. Therefore, the Bureau believes that a delay of the compliance date is important to complete a meaningful reconsideration.

The Bureau disagrees with the assertion that finalization of the Delay NPRM is tantamount to early adoption of the Reconsideration NPRM. The Bureau has proposed a limited delay to the compliance date of 15 months to consider comments on the Reconsideration NPRM. This delay is not indefinite—compliance with the Mandatory Underwriting Provisions will be required as of the new compliance date unless the Bureau decides rescind those provisions via the reconsideration rulemaking.

4. Length of the Proposed Delay

Several commenters opposing the proposed delay noted that the 2016 Proposal, which was later finalized as the 2017 Final Rule, had a 15-month compliance period, and that the Bureau subsequently extended the period by an

⁴⁷ The Bureau noted its concern in the Delay NPRM that the proposed delay would "allow industry participants to avoid irreparable injury from the compliance and implementation costs and the market effects associated with preparing for and complying with portions of the Rule that the Bureau is proposing to rescind." 84 FR 4298, 4300.

additional six months in the 2017 Final Rule. One commenter noted that the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act) gave credit card issuers nine months to comply with major new consumer protections, including an ability-to-repay requirement,⁴⁸ and that changes to State laws with a more substantial impact on the payday and title lending industries typically provide only three to nine months for full implementation. These commenters argued that industry participants' renewed requests for more time do not justify further extension of what they consider an already lengthy implementation period, or that even if compliance challenges posed as a reason for delay (with the commenters also asserted that here they do not), they certainly cannot justify a delay of an additional 15 months. Relatedly, they argued that the industry complaints cited by the Bureau bear no relationship to the proposed 15-month delay, asserting that the Bureau's focus on these issues appears to be an attempt to support a result the agency has already determined.

A group of State attorneys general claimed that the Bureau offered, in the 2017 Final Rule, a legitimate and appropriate analysis justifying the amount of time the rule provided industry to comply with the Mandatory Underwriting Provisions, and that the reasons the Delay NPRM offered contradicted its own prior analysis. One consumer advocacy group claimed that the length of the delay the Bureau proposed does not square with the reason the Bureau suggests for such delay, *i.e.*, that the delay proposed by the Bureau for considering and potentially finalizing the Reconsideration NPRM was more time than the Bureau took to finalize the 2017 Final Rule, which the group argued was a more complex and difficult rulemaking. Commenters supportive of the Bureau's proposal largely agreed that 15 months was an appropriate length of time for the delay. Several commenters, however, suggested that the Bureau delay for a longer period (such as 21 or 22 months, or until December 31, 2021) or that the extension of the compliance date should not begin until something else occurs (such as the completion of the reconsideration rulemaking or the lifting of the stay in the pending litigation challenging the Rule). One commenter asserted that a delay shorter than 22 months would threaten serious and

irreparable harm to both payday and title lenders as well as the consumers who rely on them for credit, and further asserted that such an extension would suffice only if one assumes (incorrectly, in the view of this commenter) that the original compliance period was adequate.

One commenter asserted that the Bureau did not explain how it arrived at a decision to propose a 15-month delay, while simultaneously quoting the Bureau's explanation that the Bureau was proposing a 15-month delay in order to permit an orderly conclusion to its separate rulemaking process to reconsider the Mandatory Underwriting Provisions of the 2017 Final Rule.⁴⁹

The Bureau continues to believe that 15 months is an appropriate length of time to delay the August 19, 2019 compliance date for the Mandatory Underwriting Provisions of the Rule, in order to permit an orderly conclusion to the reconsideration rulemaking process. In addition, the Bureau believes that providing a date certain for the delay will provide more certainty and clarity to all relevant stakeholders in this context.

The comment period for the Reconsideration NPRM closed on May 15, 2019, and the Bureau received approximately 190,000 comments. The Bureau believes that the 15-month delay will give the Bureau sufficient time to review the comments received, make a determination as to how to proceed in that rulemaking, and to prepare, issue, and publish in the **Federal Register** a final rule sufficiently in advance of the November 19, 2020 compliance date to allow the final rule to take effect by that date (if the Bureau elects to rescind the Mandatory Underwriting Provisions).⁵⁰ This timeframe is not inconsistent with the Bureau's timing for issuing final rules where the proposal garnered a

⁴⁹ See 84 FR 4298, 4299. The Bureau also explained in the Delay NPRM that it preliminarily believed, based on its experience writing the 2017 Final Rule and with other similar rulemakings, that the proposed compliance date of November 19, 2020 would allow the Bureau adequate opportunity to review comments on its Reconsideration NPRM regarding the Mandatory Underwriting Provisions of the 2017 Final Rule and to make any changes to those provisions before affected entities bear additional costs associated with implementing and complying with the 2017 Final Rule, and related market effects. *Id.* at 4301.

⁵⁰ Under the Congressional Review Act, before a rule can take effect, an agency must submit the rule to both Houses of Congress and the Comptroller General. 5 U.S.C. 801(a). Prior to this submission, an agency must obtain a determination from the Office of Management and Budget (OMB) as to whether the rule is a "major rule" under 5 U.S.C. 804(2). If OMB so determines, the rule generally cannot take effect until the later of 60 days after Congress receives the rule or the rule is published in the **Federal Register**.

significant volume of comments. For example, the Bureau's rule governing prepaid accounts under Regulations E (12 CFR part 1005) and Z (12 CFR part 1026), which received approximately 65,000 comments, took approximately 20 months from the close of the comment period to publication, with an effective date approximately one year later (although the overall effective date was ultimately extended an additional 1.5 years, to April 1, 2019).⁵¹

C. Other Aspects of the Delay NPRM

1. Unanticipated Potential Obstacles to Compliance

As discussed in the Delay NPRM, the Bureau's second reason for proposing to delay the compliance date of the Mandatory Underwriting Provisions was that the Bureau had discussed implementation efforts with a number of industry participants since publication of the 2017 Final Rule. Through these conversations, the Bureau had received reports of various unanticipated potential obstacles to compliance with the Mandatory Underwriting Provisions by the August 19, 2019 compliance date. The Bureau sought to better understand these reported obstacles and how they might bear on whether the Bureau should delay the August 19, 2019 compliance date for the Mandatory Underwriting Provisions while it considers whether to rescind those portions of the 2017 Final Rule. In the Delay NPRM, the Bureau specifically discussed recent changes to State laws and systems or vendor-related issues as examples of potential obstacles to compliance.

Commenters, including lenders, trade associations, consumer advocacy groups, a group of State attorneys general, the SBA OA, and others, spoke to potential obstacles to compliance generally, changes to State laws enacted after the 2017 Final Rule was issued, and systems or vendor-related issues, including such issues specifically related to RISEs. Some lenders, trade associations, and an attorney to lenders asserted that the proposed delay is necessary even if the Bureau decides not to rescind the Mandatory Underwriting Provisions. Lenders and trade associations asserted that they would not be ready to comply with the Mandatory Underwriting Provisions by August 2019 and were deterred from making the significant investment in compliance by uncertainty about the compliance date. However, commenters provided little, if any, data or other

⁵¹ See 81 FR 83934 (Nov. 22, 2016), 82 FR 18975 (Apr. 25, 2017), 83 FR 6364 (Feb. 13, 2018).

⁴⁸ Public Law 111-8, sections 3 and 109, 123 Stat. 1734 (2009), *codified at* 15 U.S.C. 1665e.

specific information to support the existence or magnitude of these or other obstacles to compliance.⁵² In light of the absence of such data or information in the rulemaking record, the Bureau is not basing its final rule to delay the compliance date on the presence or effect of obstacles to compliance, but rather is basing it on the need to conduct an orderly rulemaking with regard to the Reconsideration NPRM.⁵³

2. Crossover Effects

The Bureau received a number of comments that addressed crossover effects of the proposed delay of the Mandatory Underwriting Provisions on the implementation of the Payment Provisions.

A comment from a group of State attorneys general expressed some confusion about the request for comment on crossover effects. Nevertheless, the comment stated that the compliance date for the Payment Provisions should not be delayed and those provisions should go into effect as scheduled on August 19, 2019. They asserted that they were unaware of any circumstance where a high-cost lender does not act in an unfair and abusive manner by making more than two consecutive failed efforts to withdraw payments from a consumer's account without first obtaining new consumer authorization.

On the other hand, trade association and industry commenters contended that crossover effects existed and were reasons to delay or reconsider the compliance date for the Payment Provisions. Industry commenters stated that the 2017 Final Rule established a complex and interconnected set of provisions that covers various categories of covered loans. Given these interconnections, a number of commenters stated that the proposed delay of the Mandatory Underwriting Provisions potentially could impact the Payment Provisions, leading to confusion and unintended consequences for consumers and industry. Commenters stated that

because of the complicated distinctions and overlapping definitions of covered loans, reconsideration of the Mandatory Underwriting Provisions could result in potential complications for industry with respect to compliance obligations and operations. Commenters asserted that such complications would be particularly likely if the Reconsideration NPRM resulted in modifications to the definitions or exemptions of covered loans.

A trade association stated that Payment Provisions cover a wider range of covered loans than the Mandatory Underwriting Provisions and therefore will impact more consumers and industry participants. Given this consequence for consumers and industry, the trade association urged the Bureau to delay and reconsider the Payment Provisions.

The Bureau has reviewed and analyzed these comments and has determined that they do not identify crossover effects on implementation of the Payment Provisions such that the Bureau should delay parts of the Rule other than the Mandatory Underwriting Provisions.

The Bureau disagrees with the comments asserting that finalizing the Delay NPRM would have crossover effects on the implementation of the Payment Provisions. The commenters in general did not identify specific or definite examples of crossover effects. Further, commenters generally did not identify with specificity negative or unintended consequences to consumers or industry that would arise from any such effects.

As to comments that said that changes to the 2017 Final Rule's covered loan definition could have potential crossover effects, the Bureau acknowledges that the Payment Provisions apply to a broader group of covered loans than do the Mandatory Underwriting Provisions, and if the Bureau undertook changes to narrow the 2017 Final Rule's coverage those changes could impact implementation. However, neither the Delay NPRM nor the Reconsideration NPRM proposed changes to the scope of the 2017 Final Rule's coverage. Additionally, the Delay NPRM did not propose delaying provisions that generally implement the covered loan definition. Further, commenters did not explain how the proposed rescission of the Mandatory Underwriting Provisions would in practice affect the covered loan definition in the Rule.

Having considered these comments, the Bureau concludes that delaying the Mandatory Underwriting Provisions will not result in significant crossover

effects on implementation of the Payment Provisions.

Regarding comments about industry burden directly resulting from the Payment Provisions, which include comments about those provisions' compliance costs and market impacts, the Bureau considers these comments outside the scope of the proposal. The Bureau did not propose in the Delay NPRM to delay the compliance date for the Payment Provisions.⁵⁴ Rather, the Bureau specifically solicited comment about whether and to what extent delaying the compliance date of the Mandatory Underwriting Provisions would impact implementation of the Payment Provisions.⁵⁵ Comments about the Payment Provisions' industry burden in general are not responsive to this request for comment. However, as noted in both NPRMs, the Bureau has also received formal and informal feedback regarding the Payment Provisions.⁵⁶ As indicated in those NPRMs, the Bureau intends to examine issues raised by this feedback and determine whether further action is warranted.

D. Other Issues Raised by Commenters

1. Bureau Statements Regarding the Rule and the Litigation Stay

Commenters argued that a compliance date delay is needed because a "cloud of uncertainty" has hung over the rule since it was published in 2017 and that as a result most lenders have deferred taking necessary steps to implement the Mandatory Underwriting Provisions. Commenters cited, variously, statements made by the Bureau or the then-Acting Director, the filing of the lawsuit challenging the Rule in April 2018, and the court's stay of the Rule's compliance date in November 2018. One commenter asserted that this uncertainty has prevented banks from being able to adequately design compliance programs.

One commenter noted that the court's stay of the compliance date remains in force, but could be lifted at any time, arguing that because of this uncertainty, the stay does not ameliorate concerns about the August 19, 2019 compliance date. Another commenter asserted that at this stage it would be inequitable for lenders to be required to commence implementation of costly compliance systems and undertake other measures required to become compliant, especially if the stay of the Rule is lifted by the court, and that the likely result

⁵² Some commenters noted that lenders had expected to be able to comply with the Mandatory Underwriting Provisions through the use of third-party vendor and software services but stated that those are not currently available in the marketplace. The lenders, however, did not provide specific information as to the costs they would be likely to incur were they to comply with the Mandatory Underwriting Provisions in the absence of such third-party services.

⁵³ Some commenters also asserted that compliance with the Mandatory Underwriting Provisions would be impossible in the absence of RISes. The general standard for making an ability-to-repay determination under § 1041.5, however, does not require that lenders obtain a consumer report from an RIS if such a report is not available.

⁵⁴ See 84 FR 4298, 4301.

⁵⁵ See *id.*

⁵⁶ See *id.* See also 84 FR 4252, 4253, 4260.

would be that smaller storefront lenders would exit the business.

A consumer advocacy group commented that the Bureau failed to explain related decisions by the agency that could inform commenters' reaction to the Delay NPRM, noting that the Bureau did not explain that it had itself asked the court to stay the Rule's compliance date or explain the Bureau's assumptions about the relationship between that litigation and the Delay NPRM.

The Bureau acknowledges that its statements and pending litigation have created greater uncertainty for industry and consumers. However, the Bureau did not propose these issues as possible grounds for delaying the compliance date, and is not relying on them here to finalize the compliance date delay.

2. Decreased Consumer Complaints

In the Reconsideration NPRM, the Bureau noted that changes to State-level regulation may have contributed to the decline in payday lending complaints that the Bureau handled through its Office of Consumer Response.⁵⁷ Several commenters suggested in their comments on the Delay NPRM that the Bureau should delay the compliance date of the Mandatory Underwriting

⁵⁷ 84 FR 4252, 4254–55. As cited in the 2017 Final Rule, in 2016 the Bureau handled approximately 4,400 complaints in which consumers reported “payday loan” as the complaint product. 82 FR 54472, 54483, citing Bureau of Consumer Fin. Prot., *Consumer Response Annual Report, Jan. 1–Dec. 31, 2016*, at 33 (March 2017), https://www.consumerfinance.gov/documents/3368/201703_cfpb_Consumer-Response-Annual-Report-2016.PDF.

In contrast, the Bureau received approximately 2,900 payday loan complaints in 2017, and approximately 2,300 in 2018. In each of these reporting years, it appears that consumers complained most frequently about unexpected fees associated with payday loans, while consumers complaining about receiving a loan for which payday lenders had not determined their ability to repay loans were less frequent. Bureau of Consumer Fin. Prot., *Consumer Response Annual Report, Jan. 1–Dec. 31, 2017*, at 34 (March 2018), https://www.consumerfinance.gov/documents/6406/cfpb_consumer-response-annual-report_2017.pdf; Bureau of Consumer Fin. Prot. Consumer Response Database. To provide a sense of the number of complaints for payday loans relative to the number of complaints for other product categories, from October 1, 2017 through September 30, 2018, approximately 0.7 percent of all consumer complaints the Bureau received were about payday loans, and 0.2 percent were about vehicle title loans. Bureau of Consumer Fin. Prot., *Semi-Annual Report of the Bureau of Consumer Financial Protection*, at 19 tbl. 3 (Fall 2018), https://www.consumerfinance.gov/documents/7266/cfpb_semi-annual-report-to-congress_fall-2018.pdf. The Bureau notes that there is some overlap across product categories. For example, a consumer complaining about the conduct of a debt collector seeking to recover on a payday loan would frequently be in the debt collection product category rather than the payday loan product category.

Provisions to see if the downward trend in consumer complaints continues and whether State regulation is adequate to protect consumers without limiting access to credit. The Bureau will continue to monitor complaint volumes, but is not basing its decision to delay on these grounds.

3. UDAAP Rulemaking Generally

One commenter suggested that the Bureau should adopt definitive UDAAP standards through a standalone notice-and-comment rulemaking process before promulgating and implementing specific rules relying on what the commenter referred to as shifting and unsettled interpretations of unfairness and abusiveness. The commenter also asserted that applying new or revised UDAAP interpretations on an ad hoc basis is arbitrary and capricious as well as an inappropriate way to make regulatory policy.

The Bureau indicated in its fall 2018 semiannual regulatory agenda that it is considering whether rulemaking or other activities may be helpful to further clarify the meaning of “abusiveness” under the section 1031 of the Dodd-Frank Act.⁵⁸ This issue remains on the Bureau's list of long-term actions.⁵⁹ The Bureau also recently announced that the first in an upcoming series of symposia that the Bureau is hosting will focus on clarifying the meaning of abusive acts or practices under section 1031 of the Dodd-Frank Act.⁶⁰

At this time, the Bureau has not yet decided whether it will take measures to address the general meaning of abusiveness. The Bureau believes that its Reconsideration NPRM proposes an interpretation of unfairness and abusiveness that is focused on the unique characteristics of the markets for the loans at issue. The Bureau does not consider this comment relevant to the specific issue presented in the rulemaking, which is whether the compliance date of the Mandatory Underwriting Provisions should be delayed. The Bureau already issued the Mandatory Underwriting Provisions as part of the 2017 Final Rule without the standalone rulemaking process desired by the commenter, and it is delaying the compliance date in order to reconsider those provisions.

⁵⁸ 83 FR 58118, 58120 (Nov. 16, 2018).

⁵⁹ See <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201904&RIN=3170-AA88>.

⁶⁰ See Bureau of Consumer Fin. Prot., *Consumer Financial Protection Bureau Announces Symposia Series* (Apr. 18, 2019), <https://www.consumerfinance.gov/about-us/newsroom/bureau-announces-symposia-series/>.

4. Tribal Consultations and Interagency Coordination

Several commenters requested additional tribal government consultations regarding the Rule, both NPRMs, and/or tribal lending generally. Several other commenters requested that the Bureau coordinate with the prudential regulators to create a unified framework for regulating the small-dollar credit market. The Bureau will continue to coordinate and consult with tribal governments and with the prudential regulators as required by sections 1015 and 1022(b)(2)(B) of the Dodd-Frank Act and in accordance with the Bureau's frameworks on tribal government and interagency consultations.

5. Prejudgment of the Outcome of This Rulemaking and Stakeholder Influence on Rulemaking

Several commenters opposing the delay suggested that the Bureau might have prejudged the outcome of the Delay NPRM, arguing that the Bureau's actions (including the Bureau's statements regarding the rule, lack of an approved Office of Management and Budget (OMB) Control Number under the Paperwork Reduction Act of 1995 (PRA), and posture in the pending litigation) suggests that the Bureau decided to delay the Mandatory Underwriting Provisions before it issued the Delay NPRM. Commenters also asserted that the Reconsideration NPRM lacks support and rests on what one referred to as biased and contaminated input due to meetings that they asserted occurred prior to issuance of the NPRMs. They also noted recent media reports regarding the influence of the payday lending industry on academic studies and thereby purportedly on the Bureau's rulemaking. One commenter noted the difficulty in determining such industry influence on academic work and the rulemaking process, and suggested that the Bureau conduct a thorough investigation of all pro-industry studies reviewed or relied upon in connection with both NPRMs to ascertain whether there has been any industry influence on such purportedly independent work.

The Bureau issued NPRMs seeking comment on whether it should delay the compliance date of the Mandatory Underwriting Provisions as well as whether it should rescind those provisions. The Bureau's Director has stated multiple times that she has an open mind about the outcome of both

rulemakings.⁶¹ The Bureau regularly meets with representatives of industry, consumer advocacy groups, and other interested stakeholders at various points throughout the rulemaking process.⁶² The Bureau summarized in the Delay NPRM the information on which it was relying that it had received from industry regarding the possible need for a delay of the compliance date for the Mandatory Underwriting Provisions, thus making that information part of the record and inviting public comment on it. As discussed elsewhere in this document, the public has used this opportunity to provide the Bureau with extensive and useful comments concerning the issues raised in the Delay NPRM.

In its rulemaking proceedings, including those relating to the 2017 Final Rule and the ongoing reconsideration of the Mandatory Underwriting Provisions in that Rule, the Bureau considers a broad range of information. Many stakeholders, including members of industry, trade associations, consumer advocacy groups, government agencies, and others, fund studies bearing on issues relevant to Bureau rulemakings. The Bureau conducts its own evaluation and analysis of the data presented in these studies, and draws its own conclusions about them. The Bureau does not believe that any information (including in media reports) it has received or reviewed since the issuance of the Reconsideration and Delay NPRMs undercuts the Bureau's preliminary determination to reconsider the weight it gave to certain studies (such as the Mann Study and Pew Study).

6. Comments Outside the Scope of the Proposal

As the Bureau indicated in the Delay NPRM, the purpose of that document was to seek comment on whether the Bureau should delay the August 19, 2019 compliance date for the Mandatory Underwriting Provisions. The Bureau did not propose to delay the compliance

date for the other provisions of the 2017 Final Rule, including the Payment Provisions.⁶³

Nonetheless, many commenters addressed issues related to payments or the scope of the Rule more generally in their comment letters. A number of commenters, including lenders, trade associations, tribal governments, the SBA OA, and others, requested that the Bureau: (1) Delay the compliance date for the Payment Provisions or for the Rule as a whole; (2) make modifications to the Payment Provisions or revise the scope of covered loans or entities to which the Rule applies; and/or (3) rescind the entire Rule. In addition, several commenters suggested that the Payment Provisions should be reassessed in light of the Reconsideration NPRM's proposed approach to unfairness and abusiveness, asserting that the Payment Provisions are predicated on the 2017 Final Rule's approach to unfairness and abusiveness, which the Reconsideration NPRM preliminarily deemed problematic.

As the Bureau noted in the Delay NPRM, the Bureau intends to separately examine these issues and the Bureau will determine whether further action is warranted (which may include issuing a request for information or an advance notice of proposed rulemaking relating to these issues). These comments are outside the scope of this final rule, and thus the Bureau is not delaying the compliance date for the Payment Provisions or making any of the other requested modifications to the Rule.

IV. Legal Authority

The legal authority for the 2017 Final Rule is described in detail in part IV of the **SUPPLEMENTARY INFORMATION** accompanying the 2017 Final Rule.⁶⁴ That discussion may be referred to for more information about the legal authority for this final rule.

The Bureau adopted the Mandatory Underwriting Provisions of the 2017 Final Rule in principal reliance on the Bureau's authority under section 1031(b) of the Dodd-Frank Act to identify and prohibit unfair and abusive

practices.⁶⁵ Accordingly, in finalizing this rule, the Bureau is exercising its authority under Dodd-Frank Act section 1031(b) to prescribe rules under Title X of the Dodd-Frank Act.

In addition to section 1031 of the Dodd-Frank Act, the Bureau relied on other legal authorities for certain aspects of the Mandatory Underwriting Provisions in the 2017 Final Rule.⁶⁶ Section 1022(b)(3)(A) of the Dodd-Frank Act authorizes the Bureau, by rule, to conditionally or unconditionally exempt any class of covered persons, service providers, or consumer financial products or services from any rule issued under Title X, which includes a rule issued under section 1031, as the Bureau determines is necessary or appropriate to carry out the purposes and objectives of Title X.⁶⁷ The Bureau also relied, in adopting certain provisions, on its authority under section 1022(b)(1) of the Dodd-Frank Act to prescribe rules as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws.⁶⁸ The term Federal consumer financial law includes rules prescribed under Title X of the Dodd-Frank Act, including those prescribed under section 1031.⁶⁹ Additionally, in the 2017 Final Rule, the Bureau relied, for certain provisions, on other authorities, including those in sections 1021(c)(3), 1022(c)(7), 1024(b)(7), and 1032 of the Dodd-Frank Act.⁷⁰

Section 1031 of the Dodd-Frank Act and each of the other legal authorities that the Bureau relied upon in the 2017 Final Rule provide the Bureau with discretion to issue rules and therefore discretion in setting compliance dates for those rules. In the 2017 Final Rule, the Bureau stated that the Rule's compliance date was "structured to facilitate an orderly implementation process."⁷¹ In particular, the Bureau sought "to balance giving enough time for an orderly implementation period against the interest of enacting protections for consumers as soon as

⁶¹ See, e.g., Bureau of Consumer Fin. Prot., *Consumer Financial Protection Bureau Releases Notices of Proposed Rulemaking on Payday Lending* (Feb. 6, 2019), <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-releases-notices-proposed-rulemaking-payday-lending/> ("The Bureau will evaluate the comments, weigh the evidence, and then make its decision," said Kathy Kraninger, Director of the Consumer Financial Protection Bureau.)

⁶² When these meetings occur while a rulemaking is pending, it is the Bureau's policy to disclose the existence and content of such meetings that impart information or argument directed to the merits or outcome of the rulemaking, consistent with its written policy. See Bureau of Consumer Fin. Prot., *Policy on Ex Parte Presentations in Rulemaking Proceedings*, 82 FR 18687 (April 21, 2017).

⁶³ In the Delay NPRM, the Bureau noted that, through its efforts to monitor and support industry implementation of the 2017 Final Rule, it had heard concerns from some stakeholders regarding the Rule that were outside of the scope of the proposal. For example, the Bureau noted that it had received a rulemaking petition to exempt debit card payments from the Rule's Payment Provisions. The Bureau has also received informal requests related to various aspects of the Payment Provisions or the Rule as a whole, including requests to exempt certain types of lenders or loan products from the Rule's coverage and to delay the compliance date for the Payment Provisions. See 84 FR 4298, 4301.

⁶⁴ 82 FR 54472, 54519–24.

⁶⁵ 12 U.S.C. 5531(b).

⁶⁶ See 82 FR 54472, 54522.

⁶⁷ 12 U.S.C. 5512(b)(3)(A).

⁶⁸ 12 U.S.C. 5512(b)(1). The Bureau also interprets section 1022(b)(1) of the Dodd-Frank Act as authorizing it to rescind or amend a previously issued rule if it determines such rule is not necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, including a rule issued to identify and prevent unfair, deceptive, or abusive acts or practices.

⁶⁹ 12 U.S.C. 5481(14).

⁷⁰ 12 U.S.C. 5511(c)(3), 12 U.S.C. 5512(c)(7), 12 U.S.C. 5514(b)(7), and 12 U.S.C. 5532.

⁷¹ 82 FR 54472, 54474.

possible.”⁷² As discussed above and in the Reconsideration NPRM, the Bureau believes that there are strong reasons for rescinding the Mandatory Underwriting Provisions of the Rule on the grounds, *inter alia*, that a more robust and reliable evidentiary record is needed to support a rule that would have such dramatic impacts on the market, and that the findings of an unfair and abusive practice as set out in § 1041.4 of the 2017 Final Rule rested on applications of the relevant standards that the Bureau should no longer use. Thus, the Bureau believes that delaying the compliance date would be consistent with the “orderly implementation period,” given that the Bureau has strong reasons to rescind the Mandatory Underwriting Provisions.

Moreover, the Bureau concludes, for purposes of this final rule, that it should not assign the weight that it did in the 2017 Final Rule to “the interest of enacting protections for consumers as soon as possible.” This is because the Bureau has strong reasons to believe that the 2017 Final Rule was not the best application of the statutory scheme in section 1031 of the Dodd-Frank Act that is designed to protect that interest.

A trade association commented that the Bureau’s authority to delay the implementation of the 2017 Final Rule is firmly grounded in section 1031(b) of the Dodd-Frank Act. The trade association asserted that because section 1031(b) provided that the Bureau “may prescribe rules” identifying unfair, deceptive or abusive acts or practices, Congress intended to give the Bureau the discretionary authority to decide when such rules should be implemented and when the Bureau should enforce compliance with such rules. Further, the commenter claimed that the Bureau was right to take the view that it should not assign the weight that it did in the 2017 Final Rule to the interest of enacting protections for consumers as soon as possible given its preliminary findings about the Mandatory Underwriting Provisions of the 2017 Final Rule.

An individual commenter and consumer advocacy groups asserted that the Bureau did not have the authority to delay the 2017 Final Rule. An individual commenter claimed that the Bureau could not use its “discretion” under section 1031 or other statutory sources as a legal authority to delay the compliance date. The individual commenter further claimed that the Bureau failed to identify specific legal authorities conferred by Congress that would permit the Bureau to delay the

2017 Final Rule, absent which the Bureau’s proposed delay would be arbitrary and capricious under the Administrative Procedure Act. The individual commenter claimed that there was no history prior to 2017 for compliance date delays, other than one identified by the commenter that was issued in 2003 by the Office of the Comptroller of Currency, which the Bureau did not cite. The individual commenter also asserted that the Delay NPRM was arbitrary and capricious because section 705 of the Administrative Procedure Act only permits a stay of an existing rule pending judicial review if justice so requires, but the litigation over the 2017 Final Rule in the Federal district court in Texas did not justify such a stay because that case has already been stayed by the court. A consumer advocacy group asserted that, by way of analogy, the Bureau could not demonstrate under the standard established by section 705 of the Administrative Procedure Act a likelihood of success on the merits if the Reconsideration NPRM were finalized and subject to judicial review.

The Bureau concludes, contrary to the views of some commenters, that it has the discretionary authority to delay the 2017 Final Rule. Accordingly, the Bureau also agrees with the commenters who argued that section 1031(b) of the Dodd-Frank Act confers upon the Bureau the authority to reconsider or delay rules that the agency has issued based on findings of unfair, deceptive or abusive acts and practices. The Bureau further concludes that it properly identified in the Delay NPRM the specific legal authorities that it relied on to delay the 2017 Final Rule; those authorities were identified in the Legal Authorities section of the Delay NPRM and are set forth above. Finally, the Bureau does not rely on section 705 of the Administrative Procedure Act in issuing this rule, and that section is not otherwise relevant to this rulemaking.

V. Section-by-Section Analysis

As discussed above, the 2017 Final Rule became effective on January 16, 2018, but had a compliance date of August 19, 2019 for §§ 1041.2 through 1041.10, 1041.12, and 1041.13. The Bureau proposed to delay the August 19, 2019 compliance date to November 19, 2020 for §§ 1041.4 through 1041.6, 1041.10, 1041.11, and 1041.12(b)(1)(i) through (iii) and (b)(2) and (3). Sections 1041.4 through 1041.6 govern underwriting, with § 1041.4 identifying an unfair and abusive practice, § 1041.5 governing the ability-to-repay determination, and § 1041.6 providing a

conditional exemption from §§ 1041.4 and 1041.5 for certain covered short-term loans. Section 1041.10 governs information furnishing requirements and § 1041.11 addresses RISEs.⁷³ Section 1041.12 sets forth compliance program and record retention requirements, with § 1041.12(b)(1) through (3) detailing record retention requirements that are specific to the Rule’s Mandatory Underwriting Provisions.⁷⁴

In the Delay NPRM, the Bureau sought comment on whether it had identified the appropriate provisions of the 2017 Final Rule as constituting the Mandatory Underwriting Provisions for purposes of the proposed delay, as well as whether it should amend the Rule’s regulatory text or commentary to expressly state the delayed compliance date for the Mandatory Underwriting Provisions and/or the unchanged date for the Payment Provisions.

Several commenters agreed that the Bureau had identified the correct provisions to delay. One commenter requested that the Bureau amend the Rule itself to expressly state the delayed compliance date. Another commenter, however, argued that there was no reason to change the compliance date for § 1041.11, noting that unlike the rest of the rule, this section was set to be fully effective and implemented as of January 16, 2018 and that it does not impose any mandatory implementation costs. The commenter further stated that the Bureau has provided no reason it should shutter its own system for processing RIS applications, and that if the Bureau stalled the RIS application it would suggest the Bureau has prejudged the outcome to the Reconsideration NPRM.

The long-passed January 16, 2018 date for § 1041.11 should not be, and is not being, altered. As discussed above, the Bureau proposed to delay the August 19, 2019 compliance date for the Mandatory Underwriting Provisions; it did not propose to alter any other dates associated with those provisions. To avoid any potential confusion, however,

⁷³ The Bureau is not delaying the compliance date for § 1041.11, as discussed below, because the 2017 Final Rule did not provide for an August 19, 2019 compliance date for that section; its operative date was January 16, 2018. However, the Bureau is revising certain dates that appear in the regulatory text of § 1041.11 to reflect the delayed compliance date for the Mandatory Underwriting Provisions.

⁷⁴ In the Reconsideration NPRM, the Bureau proposed to modify the introductory text of § 1041.12(b)(1) for clarity as to its application to loan agreements for all covered loans, and thus it was not listed with the provisions that the Bureau proposed to rescind. Since the Bureau is not modifying the introductory text of § 1041.12(b)(1) in this final rule, it is included in the list of provisions for which the compliance date is delayed.

⁷² *Id.* at 54814.

the Bureau is not including § 1041.11 in the various lists that appear throughout this document of the sections for which it is delaying the compliance date (other than those reiterating language used in the Delay NPRM).

In this final rule, the Bureau is delaying the August 19, 2019 compliance date to November 19, 2020 for §§ 1041.4 through 1041.6, 1041.10, and 1041.12(b)(1) through (3).⁷⁵ To implement this compliance date delay, the Bureau is revising the few instances in the regulatory text and commentary where the August 19, 2019 compliance date appears. The Bureau is also adding new § 1041.15 to expressly state the Rule's effective and compliance dates. In addition, as noted above, the Bureau is also making certain corrections to address several clerical and non-substantive errors it has identified in the 2017 Final Rule, in §§ 1041.2(a)(9), 1041.3(e)(2), 1041.9(c)(3)(viii), and appendix A.⁷⁶ No substantive change is intended by these corrections.

Each of these revisions and additions is discussed in turn in the section-by-section analyses that follow.

Subpart A—General

§ 1041.2 Definitions

Section 1041.2 provides definitions for the Rule. The term “covered person” is defined in § 1041.2(a)(9). However, that term is not used anywhere in the regulatory text or commentary of the Rule. The Bureau is thus removing that definition and reserving § 1041.2(a)(9). No substantive change is intended by this correction.

§ 1041.3 Scope of Coverage; Exclusions; Exemptions

Section 1041.3 addresses the Rule's scope of coverage, as well as certain exclusions and exemptions. Section 1041.3(e) provides a conditional exemption for alternative loans; § 1041.3(e)(2) addresses the borrowing

⁷⁵ The Bureau is not delaying the compliance date for § 1041.11, as discussed above, because the 2017 Final Rule did not provide for an August 19, 2019 compliance date for that section; its operative date was January 16, 2018. However, as discussed below, the Bureau is revising certain dates that appear in the regulatory text of § 1041.11 to reflect the delayed compliance date for the Mandatory Underwriting Provisions.

⁷⁶ Under the Administrative Procedure Act, notice and opportunity for public comment are not required if the Bureau for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). The Bureau is finalizing corrections in §§ 1041.2(a)(9), 1041.3(e)(2), 1041.9(c)(3)(viii), and appendix A without notice and public comment because it finds for good cause that seeking public comment on them is unnecessary. The corrections are technical in nature and have no intended substantive effect. Therefore, these amendments are adopted in final form.

history condition, which is one of several conditions and requirements a covered loan must satisfy to qualify as an alternative loan. Section 1041.3(e)(2) states that the lender must determine from its records that the loan would not result in the consumer being indebted on more than three outstanding loans made “under this section” from the lender with a period of 180 days. However, that section (§ 1041.3) includes exclusions and exemptions for a number of other types of loans that are not relevant to the conditional exemption for alternative loans. The commentary accompanying § 1041.3(e)(2) refers to paragraph (e) rather than the entirety of § 1041.3 when discussing the requirements of the conditional exemption. The Bureau is thus correcting “this section” to “this paragraph (e)(2)” in the regulatory text of § 1041.3(e)(2). No substantive change is intended by this correction.

Subpart C—Payments

§ 1041.9 Disclosure of Payment Transfer Attempts

Section 1041.9 requires certain disclosures with respect to payment transfer attempts, with § 1041.9(c) addressing the timing, content, and electronic delivery requirements for the consumer rights notice that a lender must provide after it initiates two consecutive failed payment transfers as described in § 1041.8(b). Section 1041.9(c)(3) lists the information and statements that the notice must contain, and states that the language used must be substantially similar to the language set forth in Model Form A–5. Section 1041.9(c)(3)(viii) requires a statement that the Consumer Financial Protection Bureau created this notice, a statement that the CFPB is a Federal government agency, and the URL to www.consumerfinance.gov/payday-rule. Model Form A–5, however, lists the URL as www.cfpb.gov/payday. To avoid any potential confusion as to which URL should be used, the Bureau is revising the URL in the regulatory text of § 1041.9(c)(3)(viii) to match the URL used in Model Form A–5. No substantive change is intended by this correction.

Subpart D—Information Furnishing, Recordkeeping, Anti-Evasion, Severability, and Dates

As discussed below, the Bureau is adding new § 1041.15 to explicitly set forth the effective and compliance dates in the Rule itself. To reflect that change, the Bureau is adding “Dates” to the heading for subpart D of the Rule.

§ 1041.10 Furnishing Information to Registered Information Systems

Comment 10(b)–1 addresses provisional registration and registration of information systems while a loan is outstanding, and provides an example of when a lender is and is not required to furnish information to a provisionally-registered information system. That example used dates in the year 2020. The Bureau is revising the example to instead use dates in 2021, to avoid any potential confusion as to whether and when lenders are required to furnish such information given this final rule's delay of the compliance date for that requirement.

§ 1041.11 Registered Information Systems

As discussed above, the 2017 Final Rule became effective on January 16, 2018, though most provisions had a compliance date of August 19, 2019. The Bureau is not delaying the compliance date for § 1041.11, which sets forth requirements regarding RISEs, because the 2017 Final Rule did not provide for an August 19, 2019 compliance date for that section; it became fully effective as of January 16, 2018. However, the Bureau is revising the regulatory text and headings in § 1041.11(c) introductory text, (c)(1) and (2), (d) introductory text, and (d)(1),⁷⁷ and related commentary, to replace August 19, 2019, where it appears, with the delayed compliance date of November 19, 2020, as those provisions address how registration of information systems is to occur before and after compliance with the Mandatory Underwriting Provisions of the Rule more generally is required.

§ 1041.15 Effective and Compliance Dates

The Bureau is adding new § 1041.15 to expressly state the effective and compliance dates for various aspects of the Rule. Section 1041.15(a) provides that the effective date of the Rule is January 16, 2018, as was stated in the

⁷⁷ Section 1041.11(c)(1) allows the Bureau to preliminarily approve an entity as an information system before the compliance date. Section 1041.11(c)(2) allows the Bureau to approve the application from a preliminarily approved entity to become an RIS prior to the compliance date.

The Bureau is not, however, changing the April 16, 2018 date in § 1041.11(c)(3), which was the deadline to submit an application for preliminary approval for registration. As noted above, § 1041.11(c)(3)(iii) permits the Bureau to waive the application deadline on a case-by-case basis, and therefore the Bureau does not need to modify the existing April 16, 2018 preliminary approval date.

Section 1041.11(d)(1) sets forth the Bureau's process for approving and registering entities as information systems on or after the compliance date.

DATES section of the 2017 Final Rule.⁷⁸ Section 1041.15(b) provides that the deadline to submit an application for preliminary approval for registration pursuant to § 1041.11(c)(1) was April 16, 2018; this was also stated in the **DATES** section of the 2017 Final Rule. Section 1041.15(c) and (d) list the sections that remain with an August 19, 2019 compliance date and those that are delayed until November 19, 2020 by this final rule; together, these paragraphs address all the sections that were listed in the **DATES** section of the 2017 Final Rule with an August 19, 2019 compliance date. Specifically, § 1041.15(c) provides that the compliance date for §§ 1041.2, 1041.3, 1041.7 through 1041.9, 1041.12(a), (b) introductory text, and (b)(4) and (5), and 1041.13 is August 19, 2019. Section 1041.15(d) provides that the compliance date for §§ 1041.4 through 1041.6, 1041.10, and 1041.12(b)(1) through (3) is November 19, 2020.

Appendix A to Part 1041—Model Forms

The 2017 Final Rule was published, and added to the Code of Federal Regulations, without text headings for the model forms and clauses contained in appendix A. The Bureau is adding these headings now, using the text that appears in the images of the forms and clauses themselves. No substantive change is intended by this correction.

VI. Effective and Compliance Dates

For the reasons set forth herein, the Bureau believes it is appropriate to delay the August 19, 2019 compliance date for the Mandatory Underwriting Provisions of the 2017 Final Rule—specifically, §§ 1041.4 through 1041.6, 1041.10, and 1041.12(b)(1) through (3)—to November 19, 2020.⁷⁹ This final rule adopting the compliance date delay, along with several clarifying corrections to the Rule, will become effective 60 days after publication in the **Federal Register**, prior to the previous August 19, 2019 compliance date for the Mandatory Underwriting Provisions of the Rule, and consistent with section 553(d) of the Administrative Procedure Act⁸⁰ and with section 801(a)(3) of the Congressional Review Act.⁸¹

In the Delay NPRM, the Bureau stated that after considering comments received on that proposal, the Bureau intended to publish a final rule with respect to the delayed compliance date for the Mandatory Underwriting

Provisions of the 2017 Final Rule, if warranted. The Bureau also stated that any final rule to delay the Rule's compliance date for the Mandatory Underwriting Provisions would be published and become effective prior to August 19, 2019.

In response to the Bureau's request for comments on this aspect of the Delay NPRM, one commenter agreed that the final rule to delay the compliance date should be published and become effective prior to August 19, 2019, in order to provide clarity to industry, markets, and consumers and to avoid the possibility of piecemeal enforcement or the inference that the Bureau has determined not to enforce an existing rule. The commenter also stated that it would provide certainty beyond the pending litigation's current compliance date stay.

Another commenter stated that the Bureau should not assume that it can finalize a rule in time for it to be published and effective prior to August 19, 2019. The commenter argued that the Bureau's review of and response to comments should encompass the comments received on the Reconsideration NPRM because the Delay NPRM's impact analysis rests on the similar analysis in the Reconsideration NPRM. The commenter repeated an argument, addressed elsewhere in the preamble to this final rule, that the fact that the Reconsideration NPRM is pending does not justify a delay, but asserted that if the Bureau seeks to rely on that proposal it should address commenters' concerns about it.

The Bureau believes it was not incorrect to assume that it would be able to finalize and publish a compliance date delay final rule in time for it to be effective prior to August 19, 2019, as evidenced by the fact that it is doing so via this document. The Bureau was aware that it would not be able to finalize the Reconsideration NPRM itself by that date, however, which is why it proposed the delay and reconsideration concurrently in separate documents. As explained above, as well as in the Delay NPRM, the purpose of this compliance date delay is to permit an orderly conclusion to the Bureau's separate rulemaking process to reconsider the Mandatory Underwriting Provisions of the 2017 Final Rule.

VII. Dodd-Frank Act Section 1022(b)(2) Analysis

A. Overview

As discussed above, this final rule delays the August 19, 2019 compliance date for the Mandatory Underwriting

Provisions of the 2017 Final Rule to November 19, 2020. In the Reconsideration NPRM, the Bureau considered the impacts of rescinding the Mandatory Underwriting Provisions of the 2017 Final Rule. The analysis of the benefits and costs to consumers and covered persons required by section 1022(b)(2)(A) of the Dodd-Frank Act (also referred to as the "section 1022(b)(2) analysis") in part VIII of the Reconsideration NPRM outlines the one-time and ongoing benefits and costs of rescinding the 2017 Final Rule's Mandatory Underwriting Provisions.⁸² As this delay of the August 19, 2019 compliance date constitutes a 15-month delay of the 2017 Final Rule's compliance date for the Mandatory Underwriting Provisions, its impacts are effectively 1.25 years of the annualized, ongoing impacts described in the Reconsideration NPRM.⁸³ The impacts on the one-time costs described in the 2017 Final Rule primarily include a delay before covered entities must bear these costs, until no later than the new compliance date. As some covered entities may have already started to incur some of these one-time costs and others may incur the costs in advance of the delayed compliance date, the Bureau believes the monetary impact of a delay of the Mandatory Underwriting Provisions will have minimal impacts on the eventual costs incurred by lenders if the Bureau decides to retain the Mandatory Underwriting Provisions.

In developing this rule, the Bureau has considered the potential benefits, costs, and impacts as required by section 1022(b)(2)(A) of the Dodd-Frank Act.⁸⁴ Specifically, section 1022(b)(2)(A) of the Dodd-Frank Act calls for the Bureau to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services, the impact on depository institutions and credit unions with \$10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act, and the impact on consumers in rural areas.

In the Delay NPRM, the Bureau set forth a preliminary analysis of these effects and requested comments that could inform the Bureau's analysis of the benefits, costs, and impacts of the proposal. The Bureau specifically requested comment on the Delay NPRM's section 1022(b)(2) analysis as well as submission of additional information that could inform the

⁷⁸ 82 FR 54472.

⁷⁹ As discussed above, the Bureau is not changing the operative date of January 16, 2018 for § 1041.11.

⁸⁰ 5 U.S.C. 553(d).

⁸¹ 5 U.S.C. 801(a)(3).

⁸² 84 FR 4252, 4281–95.

⁸³ See 84 FR 4298, 4302.

⁸⁴ 12 U.S.C. 5512(b)(2)(A).

Bureau's consideration of the potential benefits, costs, and impacts of this rule to delay the August 19, 2019 compliance date of the Mandatory Underwriting Provisions of the 2017 Final Rule. In response, the Bureau received a number of comments on the topic. The Bureau has consulted with the prudential regulators and the Federal Trade Commission, including consultation regarding consistency with any prudential, market, or systemic objectives administered by such agencies.

1. Description of the Baseline

In considering the potential benefits, costs, and impacts of this rule the Bureau takes the 2017 Final Rule as the baseline, and considers economic attributes of the relevant markets as they are projected to exist under the 2017 Final Rule with its original August 19, 2019 compliance date and the existing legal and regulatory structures (*i.e.*, those that have been adopted or enacted, even if compliance is not currently required) applicable to providers.⁸⁵ This is the same baseline used in the Reconsideration NPRM. See part VIII.A.4 of the Reconsideration NPRM for a more complete description of the baseline.⁸⁶

2. Appropriateness of Federal Regulation

The appropriateness of regulation in this case—*i.e.*, for a delay of the compliance date—is discussed in more detail above. In summary, first, the Bureau's Reconsideration NPRM, published on February 14, 2019 in the **Federal Register**, set forth the Bureau's reasons for preliminarily concluding that the Mandatory Underwriting Provisions of the 2017 Final Rule should be rescinded. The Bureau is concerned that if the August 19, 2019 compliance date for the Mandatory Underwriting Provisions is not delayed, firms will expend significant resources and incur significant costs to comply with portions of the 2017 Final Rule that ultimately may be—and which the Bureau has proposed should be—rescinded.⁸⁷ The Bureau is likewise concerned that once the August 19, 2019 compliance date has passed, firms

could experience substantial revenue disruptions that could impact their ability to stay in business while the Bureau is deciding whether to issue a final rule rescinding the Mandatory Underwriting Provisions of the 2017 Final Rule. The Bureau notes above that some of these impacts, notably, the exit of smaller market participants, may be irreversible. A consumer advocacy group commented that the Bureau should not rescind an existing rule based on lack of evidence to justify that rule, without first making an attempt to collect said evidence. The Bureau notes that the Reconsideration NPRM sets forth both factual and legal grounds for reconsideration, both with respect to the unfairness determination and the abusiveness determination, and thus does not rely solely on the absence of evidence. Furthermore, the Bureau also notes that ongoing market monitoring is part of the Bureau's activities, but that to postpone finalizing this compliance date delay in order to collect additional evidence, and in so doing allowing compliance with the 2017 Final Rule's Mandatory Underwriting Provisions to become mandatory, would cause substantial revenue and market disruptions.

B. Potential Benefits and Costs to Covered Persons and Consumers

The annualized quantifiable benefits and costs of rescinding the Mandatory Underwriting Provisions of the 2017 Final Rule are detailed in the section 1022(b)(2) analysis in part VIII.B through D of the Reconsideration NPRM. Under this rule to delay the August 19, 2019 compliance date for the Mandatory Underwriting Provisions, these annualized benefits and costs will be realized for a period of 15 months (1.25 years). Additional, unquantified benefits and costs are also described in the Reconsideration NPRM's section 1022(b)(2) analysis. Under this rule, these costs and benefits will be realized for 15 months (1.25 years).

1. Benefits to Covered Persons and Consumers

This rule to delay the August 19, 2019 compliance date for the Mandatory Underwriting Provisions will delay by 15 months the implementation of the underwriting provisions and thus any restrictions on consumers' ability to choose to take out covered loans (including payday and vehicle title loans) that would be prohibited in the baseline. Several commenters, including trade associations and lenders, agreed with this characterization of maintained access, argued that choice in the market is a benefit for consumers, claimed that

available alternatives are worse for consumers, and characterized those alternatives as more expensive or less regulated. A trade association further asserted it would be more costly for consumers to default on more traditional credit products. Many consumer advocacy and public interest groups, meanwhile, argued this was not a benefit to consumers of the delay as access would be maintained for most consumers under the 2017 Final Rule, alternative products are already offered by banks and credit unions, and several small-dollar lenders have begun to offer (or have discussed offering) alternative products that would not be covered by the Mandatory Underwriting Provisions of the 2017 Final Rule (*e.g.*, non-covered installment loans).

The Bureau notes that it discussed these payday loan alternatives and their relative costs in the 2017 Final Rule, and has taken them into account in reaching its findings here.⁸⁸

Several consumer advocacy groups also commented that extended loan sequences should not be considered credit access as they do not represent new credit, but the extension of existing loans, and asserted that the Bureau did not acknowledge this in the proposal. The Bureau disagrees that it fails to account for this; the analysis here, as well as in the Reconsideration NPRM and in the 2017 Final Rule, focuses on sequence lengths that treat reborrowing as part of a dynamic decision.⁸⁹ The Bureau agrees that most consumers would maintain access to payday loans in the absence of the delay; however, as outlined in the 2017 Final Rule, the Bureau's simulations suggest that 5.9 to 6.2 percent of borrowers would be unable to initiate a loan sequence they would choose without the delay.⁹⁰ Additionally, the Bureau noted that a larger share of vehicle title borrowers would be unable to initiate a loan under the 2017 Final Rule relative to payday borrowers, and that some of these consumers would be unable to obtain a payday loan as a substitute.⁹¹ A few consumer advocacy groups also argued that the Bureau contradicted itself by finding that the 2017 Final Rule would result in reduced access but still concluding that the rule would be a net benefit for consumers, while it now treats access as a benefit to consumers. Access to credit itself is treated as a benefit in both the 2017 Final Rule and

⁸⁵ In addition to the compliance date delay, the Bureau is making certain clerical and non-substantive corrections to correct several errors it has identified in the 2017 Final Rule in §§ 1041.2(a)(9), 1041.3(e)(2), 1041.9(c)(3)(viii), and appendix A. No substantive change is intended by the corrections herein; since these corrections will have no impact on providers or consumers, they are not discussed further in this section 1022(b)(2) analysis.

⁸⁶ 84 FR 4252, 4282–84.

⁸⁷ See 84 FR 4298, 4299, 4303.

⁸⁸ 82 FR 54472, 54842–46.

⁸⁹ The Rule defines a loan as being part of a sequence if it is taken out within 30 days of a prior loan being paid off. 12 CFR 1041.2(a)(14).

⁹⁰ 82 FR 54472, 54839.

⁹¹ *Id.* at 54840.

here, and the Bureau discusses the resulting costs from prolonged use of this credit separately in the section that follows.⁹²

This rule will also delay the decrease in the revenues of payday lenders anticipated in the 2017 Final Rule (62 to 68 percent) by 15 months, resulting in an estimated increase in revenues of between \$4.25 billion and \$4.5 billion (based on the annual rate of \$3.4 billion and \$3.6 billion) relative to the baseline. A similar delay in the reduction in the revenues of vehicle title lenders will result in an estimated increase in revenues relative to the baseline of between \$4.9 billion and \$5.1 billion (based on the annual rate of \$3.9 billion to \$4.1 billion).⁹³ The rule will also cause a small but potentially quantifiable delay in the additional transportation costs borrowers would incur to get to lenders after the storefront closures expected in response to the 2017 Final Rule.

The Bureau notes that these estimates are based on simulations that assume at least one RIS will exist in the market, allowing payday lenders to issue loans under the principal step-down approach.⁹⁴ The Bureau still believes this is the most likely case in the steady-state equilibrium. However, in the case where there would not be an RIS in place at the 2017 Final Rule's compliance date, and the principal step-down approach would not be available on the compliance date, then the estimated decrease in payday loans and revenues under the Mandatory Underwriting Provisions would be more severe. For example, the 2017 Final Rule estimates a decrease in payday loan volumes of 92 to 93 percent in a regime where all loans are subject to the prescribed ability-to-repay underwriting of § 1041.5.⁹⁵ If no RIS will exist on the 2017 Final Rule's compliance date this rule will at least delay—and to the extent it allows at least one RIS to enter the market, avoid—substantially larger decreases in revenues for payday lenders, while preserving substantially greater access to this type of credit for consumers.⁹⁶

Multiple consumer advocacy groups commented that benefits to payday lenders are overstated because the Bureau's cost estimates from the 2017 Final Rule did not account for lenders making changes to the terms of their loans to better fit the regulatory structure, or offering other products. The Bureau notes that this would fall under "changes to the profitability and industry structure that would have occurred in response to the 2017 Final Rule" discussed in part VII.B.3 below. One payday lender commented that the benefits of delay to payday lenders are understated, because the estimates from the 2017 Final Rule did not account for business closures resulting in complete revenue loss. The Bureau disagrees because the estimated revenue reductions cited are for the industry as a whole and the Bureau noted in the 2017 Final Rule that some lenders would likely exit as a result of decreased revenues.⁹⁷ Additionally, the Bureau's estimates are consistent with two industry comments citing three separate studies, as discussed in the 2017 Final Rule.⁹⁸ Similarly, a trade association claimed the revenue reduction would be higher than estimated in the 2017 Final Rule because the analysis did not account for consumers with the ability to repay being unable to demonstrate their ability under the mandated requirements, but the trade association did not cite any evidence or give further detail explaining this assertion. In the 2017 Final Rule, the Bureau allowed for reasonable steps to establish the ability to repay (including using estimates and lenders' prior experience with other customers) while also noting that the estimated share of borrowers who would qualify under the ability-to-repay provisions was "necessarily imprecise" given the available data.⁹⁹ At the same time, the Bureau notes its estimates were in line with estimates using information provided by industry in comments to the 2016 Proposal.¹⁰⁰ If the commenters were correct in asserting that the Bureau's estimates of these impacts are low, that would strengthen the Bureau's reasoning for postponing

principal step-down approach largely ensured access to such loans in the 2017 Final Rule. However, this rule would better ensure access to such loans if the principal step-down approach were somehow infeasible.

⁹⁷ Further, the cited revenue decreases were for the simulation with no step-down approach loans. The Bureau estimated that with step-down approach loans included the effect of the 2017 Final Rule would most likely result in revenue decreases of 37 to 48 percent.

⁹⁸ 82 FR 54472, 54826–27.

⁹⁹ *Id.* at 54824–25.

¹⁰⁰ *Id.* at 54831–33.

the compliance date. However, the Bureau does not believe this is the case, and is not relying on the assertions in those comments for its determination.

2. Costs to Covered Persons and Consumers

The Reconsideration NPRM's section 1022(b)(2) analysis also discusses the ongoing costs facing consumers that result from extended payday loan sequences at part VIII.B through D. The available evidence suggests that, relative to the baseline in which compliance became mandatory, the Rule would impose potential costs on consumers by increasing the risks of: Experiencing costs associated with extended unanticipated sequences of payday loans and single-payment vehicle title loans, experiencing the costs (pecuniary and non-pecuniary) of delinquency and default on these loans, defaulting on other major financial obligations, and/or being unable to cover basic living expenses in order to pay off covered short-term and longer-term balloon-payment loans.¹⁰¹ Relative to the baseline where the 2017 Final Rule's compliance date is unaltered, these costs will be maintained for 15 additional months under this rule.

Several consumer advocacy groups commented that certain of these costs would continue for more than 15 months and the effects may be long-lasting for some consumers. The Bureau recognizes that some costs resulting from loan sequences begun during the 15-month delay may occur after November 19, 2020. The Bureau notes these costs are already included, and accounted for, in the baseline. Specifically, there would have been similar costs associated with loans originated prior to the 2017 Final Rule's compliance date that extended beyond that date, and that rule's section 1022(b)(2) analysis accounted for these extended costs. These same extended costs will result after this rule's delayed compliance date, and are thus accounted for in the baseline, and do not represent an additional impact on the market by this delay final rule. The Bureau also notes that there are costs resulting from loan sequences that began prior to the 15-month delay that occur during the 15-month period of time, and that these costs are included in this estimate. This is consistent with

¹⁰¹ As mentioned in the Reconsideration NPRM's section 1022(b)(2) analysis, the effects associated with longer-term balloon-payment loans are likely to be small relative to the effects associated with short-term payday and vehicle title loans. This is because longer-term balloon-payment loans are uncommon in the baseline against which costs are measured. 84 FR 4252, 4290 n.351.

⁹² *Id.* at 54817–18, 54839–43.

⁹³ These values are not discounted, as they would begin being realized immediately, and annualized discounting over such a small horizon would have a minimal impact.

⁹⁴ 82 FR 54472, 54826.

⁹⁵ *Id.* at 54826.

⁹⁶ It is also possible that this increased access would be on average more beneficial to consumers, compared to the access this rule would preserve if the principal step-down approach would be available on the compliance date. This is because the evidence suggests short-term use of loans, and or loans taken in response to discrete needs may be welfare enhancing for consumers on average. The

the approach used throughout this section 1022(b)(2) analysis, which symmetrically assesses the costs and benefits resulting directly from the 15-month delay only (and does not account for costs and benefits already present in the baseline). A number of consumer advocacy groups argued the revenue that lenders would receive under the delay would come from fees paid by consumers and would simply represent a transfer from consumers to lenders and should, therefore, be treated as a cost to consumers. As in the section 1022(b)(2) analysis of the 2017 Final Rule, the Bureau does not double-count such transfers; lenders will receive additional revenue as a result of the delay and consumers will pay additional fees in exchange for the use of payday loans. A trade association commented that the Bureau's estimated costs to consumers are too high because the Bureau never established that consumers are harmed by extended loan sequences, did not consider the benefits of these loan sequences for consumers, and ignored the set of alternatives consumers would have in the absence of payday loans. They further argued that consumers use these loans strategically and cite the Mann Study as evidence that borrowers know what they are getting into with an extended loan sequence.¹⁰² The Bureau notes that in the context of the 2017 Final Rule it discussed the benefits to consumers from extended loan sequences and commenters provided no new or additional evidence of such benefits.¹⁰³

3. Other Benefits and Costs

Other benefits and costs that the Bureau did not quantify are discussed in the Reconsideration NPRM's section 1022(b)(2) analysis in part VIII.E. These include (but are not limited to): The consumer welfare impacts associated with increased access to vehicle title loans; intrinsic utility ("warm glow") from access to loans that are not used (and that would not be available under the 2017 Final Rule); innovative regulatory approaches by States that would have been discouraged by the 2017 Final Rule; public and private health costs that may or may not result from payday loan use; changes to the profitability and industry structure that would have occurred in response to the 2017 Final Rule (e.g., industry consolidation that may create scale efficiencies, movement to installment product offerings); concerns about

regulatory uncertainty and/or inconsistent regulatory regimes across markets; benefits or costs to outside parties associated with the change in access to payday loans; indirect costs arising from increased repossessions of vehicles in response to non-payment of vehicle title loans; non-pecuniary costs associated with financial stress that may be alleviated or exacerbated by increased access to/use of payday loans; and any impacts of fraud perpetrated on lenders and opacity as to borrower behavior and history related to a lack of industry-wide RISes (e.g., borrowers circumventing lender policies against taking multiple concurrent payday loans, lenders having more difficulty identifying chronic defaulters, etc.). Each of these potential impacts is discussed in the section 1022(b)(2) analysis for the 2017 Final Rule and the section 1022(b)(2) analysis of the Reconsideration NPRM. To the extent that these impacts actually exist, they would continue under this rule for the 15-month delay of the compliance date for the 2017 Final Rule's Mandatory Underwriting Provisions.

A consumer advocacy group claimed the Bureau offered vague, "unquantified effects" in the Delay NPRM with little information on the importance of these effects in considering the impact. To the extent that data are available, the Bureau attempted to quantify these effects but notes that there is limited research on most of these effects other than what it discussed in the 2017 Final Rule. An independent research and advocacy group argued the delay will reduce the effect of regulatory uncertainty (e.g., by reducing investment) because many lenders will not implement changes to comply with the 2017 Final Rule given that it may be changed. While the Bureau agrees this delay will have some impact on regulatory uncertainty, it does not have evidence of what the effects will be, especially given the pending status of the Reconsideration NPRM, which may ultimately decrease, increase, or have no effect on the compliance costs lenders will face. A trade association claimed the Bureau failed to consider the cost to consumer privacy. The Bureau notes that any risks to consumer privacy are delayed but otherwise are unaffected by this delay final rule. The Bureau also notes that it did discuss privacy concerns relating to consumers providing lenders with additional financial information to comply with the 2017 Final Rule (though the Bureau knows of no available data that can be used to directly estimate the cost to consumers of providing this

information). Multiple consumer advocacy groups argued the estimated costs of the delay are higher since the Bureau ignored the cost of increased auto repossession under the delay. The Bureau notes that vehicle repossession was explicitly considered in the potential costs to consumers of the delay above and in the section 1022(b)(2) analysis of the 2017 Final Rule.¹⁰⁴ Some commenters asserted that the Bureau failed to consider emotional or psychological harms to consumers due to the delay of the rule. While consumers might face such non-pecuniary harms from this rule, most of these harms have not been causally linked to the use of payday or title loans, let alone ones issued without ability-to-repay-based underwriting, so there does not appear to be compelling evidence that the delay of the rule will cause such harms.

The Bureau does not believe the one-time benefits and costs described in the Reconsideration NPRM will be substantially affected by this rule to delay the August 19, 2019 compliance date for the Mandatory Underwriting Provisions. In effect, this rule will provide institutions greater flexibility in when and how to deal with the burdens of the 2017 Final Rule's Mandatory Underwriting Provisions if the Bureau retains those provisions in the reconsideration rulemaking. Some firms may have already undertaken some of the compliance costs, meaning this rule delaying the compliance date will not allow lenders to recoup these sunk costs. With the delayed compliance date for the Mandatory Underwriting Provisions, others may use the additional time to install the necessary systems and processes to comply with the 2017 Final Rule in a more efficient manner. Quantifying the value of this more flexible timeline is impossible, as it depends on, among other things, each firm's idiosyncratic capacities and opportunity costs. However, it is likely that this flexibility will be of relatively greater benefit to smaller entities with more limited resources. A trade association offered its support for the Bureau's claim that the delay will primarily shift compliance costs for lenders and suggested that some lenders may further reduce their costs if they use the additional time to flexibly implement changes. An independent research and advocacy group likewise supported the delay to reduce compliance costs, but further argued that these costs would be passed on to consumers. As the Bureau discussed in the 2017 Final Rule, standard economic

¹⁰² See Ronald Mann, *Assessing the Optimism of Payday Loan Borrowers*, 21 *Supreme Court Econ. Rev.* 105, at 123 (2013).

¹⁰³ 82 FR 54472, 54841-42.

¹⁰⁴ 82 FR 54472, 54839.

theory does predict such costs would be shared with or passed on to consumers; however, “many covered loans are being made at prices equal to caps that are set by State law or State regulation” so lenders would have been unable to pass on such costs in a number of States.¹⁰⁵ As a result, while this rule will delay when lenders incur these compliance costs, it should not cause prices already at State caps to fall below those caps as those caps were unchanged by the 2017 Final Rule.

The Bureau expects, however, that with the delayed compliance date for the Mandatory Underwriting Provisions, most firms will simply delay incurring some or all of the costs of coming into compliance. The delay of 15 months will effectively reduce the one-time benefits and costs by 1.25 years of their discount rate.¹⁰⁶ While these firms will experience potentially quantifiable benefits, the Bureau cannot know what proportion of the firms will adopt any of the strategies described above, let alone the discounting values or strategies unique to each firm. For a 15-month delay, the discounting of the one-time benefits and costs is likely to be less than 3 percent of the value of those benefits and costs.¹⁰⁷ As such, the Bureau believes the one-time benefits and costs of this rule are minimal, relative to the other benefits and costs described above.

C. Potential Impact on Depository Creditors With \$10 Billion or Less in Total Assets

The Bureau believes that depository institutions and credit unions with less than \$10 billion in assets were minimally constrained by the 2017 Final Rule’s Mandatory Underwriting Provisions. To the limited extent depository institutions and credit unions do make loans in this market, many of those loans are conditionally exempt from the 2017 Final Rule under § 1041.3(e) or (f) as alternative or

accommodation loans. As such, this rule will likewise have minimal impact on these institutions.

The Reconsideration NPRM notes that it is possible that a revocation of the 2017 Final Rule’s Mandatory Underwriting Provisions would allow depository institutions and credit unions with less than \$10 billion in assets to develop products that would not be viable under the 2017 Final Rule (subject to applicable Federal and State laws and under the supervision of their prudential regulators). Given that development of these products has been underway, and takes a significant amount of time, and that this rule’s delay does not affect such products’ longer-term viability, this rule will have minimal effect on these products and institutions.

D. Potential Impact on Consumers in Rural Areas

The Bureau concludes that delaying the compliance date will not reduce consumer access to consumer financial products and services, and it may increase all consumers’ access by delaying the point at which covered firms implement changes to comply with the 2017 Final Rule’s Mandatory Underwriting Provisions. Under the rule, consumers in rural areas will have a greater increase in the availability of covered short-term and longer-term balloon-payment loans originated through storefronts relative to consumers living in non-rural areas. As described in more detail in the Reconsideration NPRM’s section 1022(b)(2) analysis, the Bureau estimates that removing the restrictions in the 2017 Final Rule on making these loans would likely lead to a substantial increase in the markets for storefront payday lenders and storefront single-payment vehicle title loans. By delaying the August 19, 2019 compliance date for the Mandatory Underwriting Provisions, the Bureau similarly anticipates a substantial increase in those markets relative to the baseline for the duration of the delay. A trade association suggested the Bureau did not fully consider the impact for consumers in rural areas. The Bureau disagrees as it discussed differential impacts for rural consumers especially in regard to costs from changes in geographic availability of payday loans in the 2017 Final Rule and as referenced above.

VIII. Regulatory Flexibility Act

The Regulatory Flexibility Act¹⁰⁸ as amended by the Small Business Regulatory Enforcement Fairness Act of

1996¹⁰⁹ (RFA) requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small not-for-profit organizations.¹¹⁰ The RFA defines a “small business” as a business that meets the size standard developed by the Small Business Administration (SBA) pursuant to the Small Business Act.¹¹¹

The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the rule would not have a significant economic impact on a substantial number of small entities.¹¹² The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small entity representatives prior to proposing a rule for which an IRFA is required.¹¹³

The Bureau certified that the Delay NPRM would not have a significant economic impact on a substantial number of small entities and that therefore neither an IRFA nor a small business review panel was required.¹¹⁴ Upon considering relevant comments, the Bureau concludes that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, a FRFA is not required.¹¹⁵

In the Delay NPRM, the Bureau explained that the proposed compliance date delay would benefit small entities by providing additional flexibility with respect to the timing of the 2017 Final Rule’s Mandatory Underwriting Provisions’ implementation. In addition to generally providing increased flexibility, the delay in the compliance date would permit small entities to delay the commencement of any

¹⁰⁹ Public Law 104–21, section 241, 110 Stat. 847, 864–65 (1996).

¹¹⁰ 5 U.S.C. 601 through 612. The term “‘small organization’ means any not-for-profit enterprise which is independently owned and operated and is not dominant in its field, unless an agency establishes [an alternative definition under notice and comment].” 5 U.S.C. 601(4). The term “‘small governmental jurisdiction’ means governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand, unless an agency establishes [an alternative definition after notice and comment].” 5 U.S.C. 601(5).

¹¹¹ 5 U.S.C. 601(3). The Bureau may establish an alternative definition after consulting with the SBA and providing an opportunity for public comment. *Id.*

¹¹² 5 U.S.C. 601 through 612.

¹¹³ 5 U.S.C. 609.

¹¹⁴ 84 FR 4298, 4305.

¹¹⁵ See 5 U.S.C. 605(b).

¹⁰⁵ 82 FR 54472, 54834–35.

¹⁰⁶ Over and above this inflationary discounting, it is also possible that the finalized delay will result in a decrease in the nominal technology costs associated with compliance, as technology costs are generally declining. However, given the relatively short horizon and relatively mature technology required for compliance (e.g., electronic storage, database management software, etc.), this decrease in nominal costs is expected to be minimal.

¹⁰⁷ The 3 percent value assumes a discounting of 2.38 percent (the Effective Federal Funds rate as of June 4, 2019) for 1.25 years. This implicitly assumes all firms would undertake the necessary actions immediately in the absence of this rule, and would delay those actions for the full 15 months once the rule is adopted. The true value will likely be substantially less than this, as many firms will not delay by the full duration, and/or have already undertaken the actions that will result in the benefits or costs.

¹⁰⁸ Public Law 96–354, 94 Stat. 1164 (1980).

ongoing costs that result from complying with the Mandatory Underwriting Provisions of the 2017 Final Rule. The Bureau also explained that because small entities would retain the option of coming into compliance with the Mandatory Underwriting Provisions on the original August 19, 2019 compliance date, the proposed delay of the compliance date would not increase costs incurred by small entities relative to the baseline established by the 2017 Final Rule. Based on these considerations, the Bureau concluded that the Delay NPRM would not have a significant economic impact on any small entities.

A trade association commenter stated that it agreed with the Bureau that the proposed compliance date delay would not have a significant economic impact on small entities, but rather would significantly benefit them, reiterating the argument that the Mandatory Underwriting Provisions, if implemented, will have a devastating impact on the industry, particularly on smaller entities. The commenter also agreed that because small entities retain the option of coming into compliance with the Mandatory Underwriting Provisions on the original August 19, 2019 compliance date, a compliance date delay would not increase the costs incurred by small entities.

Other commenters criticized the Bureau's RFA certification on the grounds that various benefits to small entities from delay were described elsewhere in the Delay NPRM, and these commenters viewed such benefits as qualifying as a significant economic impact on a substantial number of small entities. Specifically, one commenter noted that the Bureau had explained elsewhere in the Delay NPRM that some small lenders believe the Mandatory Underwriting Provisions will significantly reduce their lending revenue, causing some to exit the market, and that some smaller industry participants had indicated that they do not have the resources to comply with new State and Federal requirements at the same time.¹¹⁶ Another commenter perceived the Delay NPRM's RFA certification as asserting that the benefit to small entities was primarily a timing change, while earlier portions of the NPRM estimate that a delay would result in concrete revenue gains for lenders. This commenter also perceived the RFA certification as relying upon a prediction that small entities would voluntarily adopt the Mandatory

Underwriting Provisions, which the commenter viewed as contradicted by the rest of the Delay NPRM.

The Bureau does not agree that the benefits to small entities of this rule are capable of qualifying as a "significant economic impact" on a substantial number of small entities such that an IRFA and FRFA are required under the RFA.¹¹⁷ That specific phrase is used several times in the RFA, and under accepted principles of statutory interpretation there is a presumption that a specific phrase bears the same meaning throughout a statutory text. Other uses of the phrase make clear that it refers to adverse effects on small entities, not benefits. For example, an IRFA must discuss alternatives considered by the agency that "minimize any significant economic impact" on small entities, and a FRFA must discuss steps taken by the agency to "minimize the significant economic impact" on small entities.¹¹⁸ Congress could not have intended through the RFA to minimize benefits to small entities, and accordingly the Bureau does not believe that the benefits of this rule qualify as a significant economic impact. Further reinforcing this conclusion, the other required elements of an IRFA and FRFA generally focus on adverse effects on small entities, and none specifically focuses on benefits to small entities.¹¹⁹ Thus, performing an IRFA or FRFA for a rule (such as this compliance date delay rule) that has only benefits to small entities and no adverse effects on them would serve little purpose.

Clerical and non-substantive corrections. In addition to the compliance date delay, the Bureau is making certain clerical and non-substantive corrections to correct several errors it has identified in the 2017 Final Rule in §§ 1041.2(a)(9), 1041.3(e)(2), 1041.9(c)(3)(viii), and appendix A. No substantive change is intended by the corrections herein, and so these corrections will have no impact on small entities.

Certification. Accordingly, the undersigned hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

IX. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA),¹²⁰ Federal agencies are

generally required to seek Office of Management and Budget (OMB) approval for information collection requirements prior to implementation. Under the PRA, the Bureau may not conduct or sponsor and, notwithstanding any other provision of law, a person is not required to respond to an information collection unless the information collection displays a valid control number assigned by OMB. The collections of information related to the 2017 Final Rule were previously submitted to OMB in accordance with the PRA and assigned OMB Control Number 3170-0065 for tracking purposes; however, this control number is not yet active as OMB has not approved this information collection request. In addition, given the Bureau's proposals to delay and reconsider the Mandatory Underwriting Provisions, pursuant to the requirements of the PRA and the applicable implementing regulations,¹²¹ OMB requested that the Bureau make an additional submission relating to just the Payment Provisions of the Rule; as of June 5, 2019, an OMB Control Number has not been assigned for this request.¹²²

The Bureau has determined that this final rule would not impose any new recordkeeping, reporting, or disclosure requirements on members of the public that would constitute collections of information requiring approval under the PRA.

A consumer advocacy group commenter stated that the Delay NPRM did not explain the statement (also included herein, above) that the Bureau considers the OMB Control Number assigned to the 2017 Final Rule to be "not yet active" because OMB has not approved the PRA request submitted with the Rule. The commenter noted that January 16, 2018 was the statutory deadline for OMB to decide on the PRA request associated with the 2017 Final Rule and asserted that the Director of OMB declined to make a decision about that PRA request, with no announcement about that decision, his reasoning, or its impact. The commenter also noted that OMB regulations allow agencies to proceed with PRA collections, based on inferred OMB approval, if OMB does not act upon the agency's submission within 60 days of a final rule being published in the **Federal Register**.¹²³ The commenter suggested that the Bureau was using the lack of PRA approval and OMB's inaction as an alternative justification

¹¹⁶ As discussed above, the Bureau is not finalizing the compliance date delay on the grounds of unanticipated potential obstacles to compliance.

¹¹⁷ 5 U.S.C. 605(b).

¹¹⁸ 5 U.S.C. 603(c), 604(a)(6). See also 5 U.S.C. 610(a) (Periodic review of rules); Public Law 96-354, section 2(a)(7), 94 Stat. 1164 (1980) (Congressional findings).

¹¹⁹ See 5 U.S.C. 603, 604.

¹²⁰ 44 U.S.C. 3501 *et seq.*

¹²¹ 44 U.S.C. 3504(h) and 5 CFR 1320.11.

¹²² See https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201902-3170-002.

¹²³ 5 CFR 1320.5(a)(2), 1320.12(e)(2).

for delaying the Mandatory Underwriting Provisions. The commenter noted that the lack of OMB approval under the PRA affects not only the Mandatory Underwriting Provisions but also the Payment Provisions, which have a compliance date of August 19, 2019. The commenter asserted that a clear explanation of the Bureau's approach with respect to these issues is needed.

The Bureau is not relying on the lack of OMB approval under the PRA as a justification for this delay final rule; it was not cited in the Delay NPRM as such, nor is it cited herein. The Bureau does not have control over OMB's timing for approval of pending Information Collection Requests or issuance of OMB Control Numbers.

X. Congressional Review Act

Pursuant to the Congressional Review Act,¹²⁴ the Bureau will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States at least 60 days prior to the rule's published effective date. The Office of Information and Regulatory Affairs has designated this rule as a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 12 CFR Part 1041

Banks, Banking, Consumer protection, Credit, Credit Unions, National banks, Registration, Reporting and recordkeeping requirements, Savings associations, Trade practices.

Authority and Issuance

For the reasons set forth above, the Bureau amends 12 CFR part 1041 as set forth below:

PART 1041—PAYDAY, VEHICLE TITLE, AND CERTAIN HIGH-COST INSTALLMENT LOANS

- 1. The authority citation for part 1041 continues to read as follows:

Authority: 12 U.S.C. 5511, 5512, 5514(b), 5531(b), (c), and (d), 5532.

Subpart A—General

§ 1041.2 [Amended]

- 2. Amend § 1041.2 by removing and reserving paragraph (a)(9).

§ 1041.3 [Amended]

- 3. Amend § 1041.3 by removing "section" and adding in its place "paragraph (e)" in paragraph (e)(2).

Subpart C—Payments

§ 1041.9 [Amended]

- 4. Amend § 1041.9 by removing "www.consumerfinance.gov/payday-rule" and adding in its place "www.cfpb.gov/payday" in paragraph (c)(3)(viii).
- 5. Revise the heading for subpart D to read as follows:

Subpart D—Information Furnishing, Recordkeeping, Anti-Evasion, Severability, and Dates

§ 1041.11 [Amended]

- 6. Amend § 1041.11 by removing "August 19, 2019" everywhere it appears and adding in its place "November 19, 2020" in paragraphs (c) and (d).
- 7. Add § 1041.15 as follows:

§ 1041.15 Effective and compliance dates.

(a) *Effective date.* The effective date of this part is January 16, 2018.

(b) *April 16, 2018 application deadline.* The deadline to submit an application for preliminary approval for registration pursuant to § 1041.11(c)(1) is April 16, 2018.

(c) *August 19, 2019 compliance date.* The compliance date for §§ 1041.2, 1041.3, 1041.7 through 1041.9, 1041.12(a), (b) introductory text and (b)(4) and (5), and 1041.13 is August 19, 2019.

(d) *November 19, 2020 compliance date.* The compliance date for §§ 1041.4 through 1041.6, 1041.10, and 1041.12(b)(1) through (3) is November 19, 2020.

Appendix A to Part 1041—Model Forms

- 8. In appendix A to part 1041, add headings for Model Forms and Clauses A-1 through A-8 to read as follows:

A-1 Model Form for First § 1041.6 Loan

* * * * *

A-2 Model Form for Third § 1041.6 Loan

* * * * *

A-3 Model Form for First Payment Withdrawal Notice Under § 1041.9(b)(2)

* * * * *

A-4 Model Form for Unusual Withdrawal Notice Under § 1041.9(b)(3)

* * * * *

A-5 Model Form for Consumer Rights Notice Under § 1041.9(c)

* * * * *

A-6 Model Clause for First Payment Withdrawal Electronic Short Notice Under § 1041.9(b)(4)

* * * * *

A-7 Model Clause for Unusual Withdrawal Electronic Short Notice Under § 1041.9(c)(4)(ii)(B)

* * * * *

A-8 Model Clause for Consumer Rights Electronic Short Notice Under § 1041.9(c)(4)

* * * * *

- 9. In supplement I to part 1041:
- a. Under *Section 1041.10—Furnishing Information to Registered Information Systems*, revise *10(b) Information Systems to Which Information Must Be Furnished*.
- b. Under *Section 1041.11—Registered Information Systems*, revise the headings for subsections 11(c) and 11(d).

The revisions and addition read as follows:

Supplement I to Part 1041—Official Interpretations

* * * * *

Section 1041.10—Furnishing Information to Registered Information Systems

* * * * *

10(b) Information Systems to Which Information Must Be Furnished

1. *Provisional registration and registration of information system while loan is outstanding.* Pursuant to § 1041.10(b)(1), a lender is only required to furnish information about a covered loan to an information system that, at the time the loan is consummated, has been registered pursuant to § 1041.11(c)(2) for 180 days or more or has been provisionally registered pursuant to § 1041.11(d)(1) for 180 days or more or subsequently has become registered pursuant to § 1041.11(d)(2). For example, if an information system is provisionally registered on March 1, 2021, the obligation to furnish information to that system begins on August 28, 2021, 180 days from the date of provisional registration. A lender is not required to furnish information about a loan consummated on August 27, 2021 to an information system that became provisionally registered on March 1, 2021.

2. *Preliminary approval.* Section 1041.10(b) requires that lenders furnish information to information systems that are provisionally registered pursuant to § 1041.11(d)(1) and information systems that are registered pursuant to § 1041.11(c)(2) or (d)(2). Lenders are not

¹²⁴ 5 U.S.C. 801 *et seq.*

required to furnish information to entities that have received preliminary approval for registration pursuant to § 1041.11(c)(1) but are not registered pursuant to § 1041.11(c)(2).

* * * * *

Section 1041.11—Registered Information Systems

* * * * *

11(c) Registration of Information Systems Prior to November 19, 2020

* * * * *

11(d) Registration of Information Systems On or After November 19, 2020

* * * * *

Dated: June 5, 2019.

Kathleen L. Kraninger,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2019-12307 Filed 6-14-19; 8:45 am]

BILLING CODE 4810-AM-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2017-0418; Product Identifier 2016-CE-041-AD; Amendment 39-19645; AD 2019-10-06]

RIN 2120-AA64

Airworthiness Directives; Aviat Aircraft Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Aviat Aircraft Inc. Models A-1C-180 and A-1C-200 airplanes equipped with a Rapco part number RA1798-00-1 fuel vent check valve installed on either wing or both. This AD was prompted by a report that the fuel tank vent check valves are sticking in the closed position causing fuel starvation to the engine. This AD requires revision of the airplane flight manual (AFM) to add a pre-flight check of the fuel vent check valves for proper operation and replacing any inoperative fuel vent check valve with an airworthy part. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 22, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 22, 2019.

ADDRESSES: For service information identified in this final rule, contact Aviat Aircraft Inc., P.O. Box 1240, Afton, WY 83110; phone (307) 885-3151; fax: (307) 885-9674; email: aviat@aviataircraft.com; internet: http://aviataircraft.com. You may view this service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148. It is also available on the internet at http://www.regulations.gov by searching for and locating Docket No. FAA-2017-0418.

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-2017-0418; 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 Docket Operations, 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:

Richard R. Thomas, Aviation Safety Engineer, FAA, Denver Aircraft Certification Office (ACO) Branch, 26805 East 68th Avenue, Room 214, Denver, Colorado 80249; phone: (303) 342-1085; fax: (303) 342-1088; email: richard.r.thomas@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 Aviat Aircraft Inc. (Aviat) Models A-1C-180 and A-1C-200 airplanes equipped with Rapco part number (P/N) RA1798-00-1 fuel vent check valves. The NPRM published in the Federal Register on May 5, 2017 (82 FR 21142). The NPRM was prompted by a report of the fuel tank vent check valves sticking in the closed position causing fuel starvation to the engine. The incident airplane was equipped with Rapco P/N RA1798-00-1 fuel vent check valves. As designed, the check valve ball seat on this P/N valve is nearly the same diameter as the ball and the ball can readily wedge itself in the seat and block the fuel tank vent. The NPRM proposed to require revising the AFM to add a pre-flight check of the

fuel vent check valves for proper operation and replacing any inoperative fuel vent check valve with a Dukes P/N 1798-00-1 fuel check valve.

Actions Since the NPRM was Issued

Since we issued the NPRM, Aviat designed a new fuel vent check valve, P/N 38266-501, that can be installed in place of the Rapco fuel vent check valve. We determined this Aviat fuel vent check valve is not subject to the unsafe condition. We also determined that the Dukes fuel vent check valve, P/N 1798-00-1, cannot be installed to replace a Rapco fuel vent check valve due to a difference in length.

Accordingly, we revised paragraph (i) of this AD to require replacing inoperative Rapco fuel vent check valves with Aviat valves instead of Dukes valves. We also removed the note from the Applicability section that referenced the Dukes valve.

We are issuing this AD to correct the unsafe condition on these products.

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.

Additional Changes Made to the Final Rule

We updated the on-condition parts cost to reflect that removing and replacing the Rapco fuel vent check valve requires cutting a hole in the wing skin and installing an access cover over the hole once the valve has been replaced. We added the minimal cost of this cover to the on-condition parts cost. Labor cost was unaffected by the cover installation.

We clarified the requirement to amend the AFM and added a fourth step to the AFM amendment to alert the owner/operator (pilot) that an inoperative check valve must be replaced in accordance with this AD. We also removed the requirement to make a maintenance entry under part 43, as revising a flight manual is not a maintenance action. A record of the AFM change must still be made as required by 14 CFR 91.417(a)(2)(v).

We refined the requirements to remove and replace an inoperative fuel vent check valve by removing the references to steps 4 and 9 of the service information. Step 4 of the service information is no longer necessary due to other changes to this AD, and step 9 is unnecessary for this AD because it is required by standard maintenance practices under 14 CFR part 43. We also changed the language regarding replacing both valves with valves that

are unaffected by this AD from “the repetitive pre-flight checks required in paragraph (g) of this AD are terminated” to “you may remove the AFM revisions required by paragraph (g) of this AD.” This change makes it clear that operators do not need an alternative method of compliance (AMOC) to return the AFM to its pre-AD configuration if they remove both Rapco valves.

Lastly, we added a second email address for requesting an AMOC. Requests must be submitted to both the assigned Aviation Safety Engineer and the Denver ACO Branch general email addresses.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM for correcting 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

We reviewed Aviat Mandatory Service Bulletin No. 33, Initial Release,

dated November 11, 2016. The service bulletin contains procedures for checking the fuel vent check valve on each wing of the airplane for proper operation and replacing any inoperative fuel vent check valve. 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 98 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Pre-flight check of the fuel vent check valve for proper operation as incorporated in the aircraft flight manual.	.5 work-hour × \$85 per hour = \$42.50 per pre-flight check.	N/A	\$42.50	\$4,165

We conservatively estimated the cost to do a single pre-flight check. We recognize the pilot is allowed to perform this check without the assistance of a mechanic, which will significantly reduce the estimated cost. We further recognize that an individual airplane will require this check every pre-flight

from the issuance of this AD until the end of its useful life as long as at least one P/N RA1798-00-1 fuel vent check valve is installed on either wing. We have no way of determining the total cost of repeating this check every pre-flight either for a single product or for all U.S. operators.

We estimate the following costs to do any necessary replacements that will be required based on the results of the pre-flight check. We have no way of determining the number of airplanes that may need these replacements.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Remove and replace inoperative fuel vent check valve.	2 work-hours (1 work-hour to remove and 1 work-hour to replace) × \$85 per hour = \$170 per fuel vent check valve. (There are 2 fuel vent check valves per airplane = \$340 to remove and replace both.).	\$330 per fuel vent check valve and \$25 per access cover. (\$710 for both.).	\$525 per fuel vent check valve. (\$1050 to remove and replace both.)

The access cover cost is for a solid color. It does not include custom paint schemes to match an individual airplane.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: “General requirements.” Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures

the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

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

Regulatory Findings

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019-10-06 Aviat Aircraft Inc.: Amendment 39-19645; Docket No. FAA-2017-0418; Product Identifier 2016-CE-041-AD.

(a) Effective Date

This AD is effective July 22, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Aviat Aircraft Inc. (Aviat) Models A-1C-180 and A-1C-200 airplanes, serial numbers 3181 through 3282, certificated in any category, that are equipped with a Rapco part number (P/N) RA1798-00-1 fuel vent check valve on one or both wings.

(d) Subject

Joint Aircraft System Component (JASC) Code 2820, Fuel Distribution.

(e) Unsafe Condition

This AD was prompted by a report that Rapco P/N RA1798-00-1 fuel vent check valves are sticking in the closed position. We are issuing this AD to detect and correct failure of the fuel tank vent check valve, which could result in fuel starvation to the engine and cause the engine to shut down.

(f) Compliance

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

(g) Verify Proper Operation of the Fuel Vent Check Valve on Each Wing

Before further flight after July 22, 2019 (the effective date of this AD), revise the airplane flight manual (AFM) as follows:

(1) Insert into the Limitations Section of the AFM steps 1 through 3 of the Accomplishment Instructions in Aviat Aircraft Inc. Mandatory Service Bulletin (MSB) No. 33, Initial Release, dated November 11, 2016 (Aviat SB, No. 33, IR).

(2) Immediately following steps 1 through 3, add the following language to the Limitations Section of the AFM: Step 4. If there is a stuck fuel vent check valve, it must be replaced in accordance with AD 2019-10-06 before further flight.

(3) This AFM revision requires preflight checks of the fuel vent check valve on each wing. This insertion and the steps therein may be performed by the owner/operator (pilot) holding at least a private pilot certificate. The AFM revision must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(h) Remove Inoperative Fuel Vent Check Valve

If a fuel vent check valve is not operating properly, before further flight, remove the inoperative valve by following steps 5 and 6 of the Accomplishment Instructions in Aviat SB, No. 33, IR.

(i) Replace Inoperative Fuel Vent Check Valve

Before further flight after removing any inoperative fuel vent check valve as required by paragraph (h) of this AD, replace it with an airworthy fuel vent check valve by following step 8 of the Accomplishment Instructions in Aviat SB, No. 33, IR. If both fuel vent check valves, Rapco P/N RA1798-00-1, are replaced with Aviat P/N 38266-501 fuel vent check valves, you may remove the AFM revisions required by paragraph (g)(1) and (2) of this AD.

(j) Special Flight Permit

Special flight permits are not necessary for the preflight checks. A special flight permit is allowed for this AD per 14 CFR 39.23 with limitations. Special flight permits are permitted for the airplane to be flown visual flight rules only to a location where the inoperative fuel vent check valve can be removed and replaced. No special flight permits are allowed if both valves are found to be inoperative.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Denver 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 ACO, send it to the attention of the person and office identified in paragraph (l)(1) of this AD.

(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.

(l) Related Information

For more information about this AD, contact Richard R. Thomas, Aviation Safety Engineer (ASE), FAA, Denver ACO Branch, 26805 East 68th Avenue, Room 214, Denver, Colorado 80249; phone: (303) 342-1085; fax:

(303) 342-1088; email: richard.r.thomas@faa.gov. If an AMOC is requested by email, it must be sent to both the ASE's email and the Denver ACO Branch general email: 9-Denver-Aircraft-Cert@faa.gov.

(m) 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) Aviat Aircraft Inc. Mandatory Service Bulletin No. 33, Initial Release, dated November 11, 2016.

(ii) [Reserved]

(3) For service information identified in this AD, contact Aviat Aircraft Inc., P.O. Box 1240, Afton, WY 83110; phone (307) 885-3151; fax: (307) 885-9674; email: aviat@aviataircraft.com; internet: <http://aviataircraft.com>.

(4) You may view this service information at FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148.

(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 Kansas City, Missouri, on June 10, 2019.

Melvin J. Johnson,

Aircraft Certification Service, Deputy Director, Policy and Innovation Division, AIR-601.

[FR Doc. 2019-12621 Filed 6-14-19; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2019-0392; Product Identifier 2019-CE-020-AD; Amendment 39-19639; AD 2019-08-51]

RIN 2120-AA64

Airworthiness Directives; Cirrus Design Corporation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Cirrus Design Corporation (Cirrus) Model SF50 airplanes. This AD was sent previously as an emergency AD to all known U.S. owners and operators of

these airplanes. This AD requires replacing the angle of attack (AOA) sensors with improved AOA sensors. This AD was prompted by three incidents on Cirrus Model SF50 airplanes of the stall warning and protection system (SWPS) or Electronic Stability & Protection (ESP) System engaging when not appropriate. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 17, 2019 to all persons except those persons to whom it was made immediately effective by Emergency AD 2019–08–51, issued on April 18, 2019, which contained the requirements of this amendment.

The Director of the Federal Register approved the incorporation by reference of a certain publication identified in this AD as of June 17, 2019.

The FAA must receive comments on this AD by August 1, 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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Cirrus Worldwide Headquarters, 4515 Taylor Circle, Duluth, Minnesota 55811; telephone: (800) 921–2737 or after hours (800) 921–2737; fax: (218) 788–3500; email: fieldservice@cirrusaircraft.com; internet: <https://cirrusaircraft.com/service-support/>. You may view this referenced service information at the FAA, Policy and Innovation, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at <http://www.regulations.gov> by searching for locating Docket No. FAA–2019–0392.

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–2019–0392; 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 Docket Operations (phone: 800–647–5527) is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

Wess Rouse, Small Airplane Program Manager, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–8113; fax: (847) 294–7834; email: wess.rouse@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

On April 18, 2019, we issued Emergency AD 2019–08–51, which requires replacing the AOA sensors with improved AOA sensors. Emergency AD 2019–08–51 was sent previously to all known U.S. owners and operators of Cirrus Model SF50 airplanes. This action was prompted by reports of three incidents on Cirrus Model SF50 airplanes of the SWPS or ESP System engaging when not appropriate. The SWPS or ESP systems may engage even when sufficient airspeed and proper angle of AOA exists for normal flight. The SWPS includes the stall warning alarm, stick shaker, and stick pusher. The ESP includes under speed protection (USP). The SWPS or the ESP systems engaging inappropriately could potentially result in a stall warning crew alert (CAS) message activation, accompanied by an audio alarm and stick shaker activation, followed possibly by either low speed ESP/USP engaging, and the stick pusher engaging. The pilot will also observe the dynamic and color-coded (Red) airspeed awareness ranges displaying the stall band, regardless of actual indicated airspeed.

The information below presents detailed information on the three incidents.

1. While the airplane was under manual pilot control, the airplane activated several downward pitch commands coincident with stall warning, stick shaker, and several associated alerts. The pilot reported “AOA FAIL” and “STICK PUSHER FAIL CAS” messages preceding the pitch command. The pilot was able to stop the automatic pitch commands by pressing and holding the autopilot disconnect button in accordance with the emergency procedure in the airplane flight manual and safely landed at his destination.

2. The operator reported stall warning and stick pusher failure in flight.

3. The airspeed indicator went red and the stall warning and stick shaker

were heard and felt while on descent. The autopilot was disengaged with the same results. The system settled with stick pusher fail, stall warning fail, and LSA fail under the airspeed. The pilot hand flew the approach and had no V_{REF} indicator but AOA appeared to be operating normally.

Cirrus and Aerosonic (manufacturer of the technical standard order AOA sensor) have identified the probable root cause as an AOA sensor malfunction due to a quality escape in the assembly of the AOA sensor at Aerosonic. Two set screws that secure the potentiometer shaft to the AOA vane shaft may have improper torquing and no application of thread locker (Loctite) to secure the two set screws. The AOA sensor with this quality escape is labeled with part number 4677–03.

Potential erroneous AOA derived indications may occur before, during, and after unintended automatic control system engagement. These indications include an abnormal appearing low speed red band or VREF green donut presented on the airspeed tape. Failed indications or intermittent indication may result in one or more of the following:

- Unintended automatic flight control activations;
- The flight crew having difficulty controlling the airplane;
- Excessive nose-down attitude; and/or
- Possible impact with terrain.

We are issuing this AD to address the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Cirrus Design Corporation SF50 Service Bulletin Number: SB5X–34–03, dated April 16, 2019 (SB5X–34–03). The service information provides instructions for replacing the AOA sensor with an improved flight sensor. The FAA also reviewed Cirrus SF50 Alert Service Advisory SA19–08, dated April 8, 2019. This service information provides instructions for the pilot to follow in the event the AOA sensor fails in flight. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA’s Determination

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

FAA’s Justification and Determination of the Effective Date

An unsafe condition exists that required the immediate adoption of Emergency AD 2019–08–51, issued on April 18, 2019, to all known U.S. owners and operators of these airplanes. The FAA found that the risk to the flying public justified waiving notice and comment prior to adoption of this rule because the noted condition presents an immediate danger to pilots and passengers of Cirrus Model SF50 airplanes. An uncommanded pitch down may be difficult to recover from in some flight regimes with potential fatal consequences. The before further flight compliance time to replace the AOA sensors due to the potential fatal consequences does not allow for prior notice and opportunity to comment for the public.

These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation

Regulations (14 CFR 39.13) to make it effective to all persons. Therefore, the FAA finds good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reason(s) stated above, the FAA finds that good cause exists for making this amendment effective in less than 30 days.

Differences Between This AD and the Service Information

SB5X–34–03 specifies 5 hours time-in-service (TIS) before replacing the AOA sensors. The FAA determined that allowing 5 hours TIS to replace the AOA sensors does not mitigate the unsafe condition; thus, this AD requires such replacement before further flight.

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–2019–0392 and Product Identifier 2019–CE–020–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 we receive, 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 we receive about this final rule.

Costs of Compliance

The FAA estimates that this AD affects 99 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 AOA sensor	1.25 work-hours × \$85 per hour = \$106.25 ...	\$16,250	\$16,356.25	\$1,619,268.75

According to the manufacturer, all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. The FAA does not control warranty coverage for affected individuals. As a result, the FAA has included all 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.

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 small airplanes, gliders, balloons, airships, domestic business jet transport airplanes, and associated appliances to the Director of the 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,
- (2) Is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

- (3) Will not affect intrastate aviation in Alaska, and
- (4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–08–51 Cirrus Design Corporation:
Amendment 39–19639; Docket No. FAA–2019–0392; Product Identifier 2019–CE–020–AD.

(a) Effective Date

This AD is effective June 17, 2019 to all persons except those persons to whom it was made immediately effective by Emergency AD 2019-08-51, issued on April 18, 2019, which contained the requirements of this amendment.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Cirrus Design Corporation Model SF50 airplanes, all serial numbers, certificated in standard category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 27; Flight Controls.

(e) Unsafe Condition

This AD was prompted by Cirrus reporting three incidents of the stall warning and protection system (SWPS) or Electronic Stability & Protection (ESP) System engaging when not appropriate. The SWPS and ESP may engage even when sufficient airspeed and proper angle of attack (AOA) exists for normal flight. SWPS includes the stall warning alarm, stick shaker and stick pusher. ESP includes under speed protection (USP). The SWPS and ESP engaging could potentially result in a STALL WARNING crew alert (CAS) message activation, accompanied by an audio alarm and stick shaker activation, followed possibly by either low speed ESP/USP engaging and/or the stick pusher engaging. The pilot will also observe the dynamic and color-coded (Red) airspeed awareness ranges displaying the stall band, regardless of actual indicated airspeed. These conditions, if not addressed, could result in the flight crew having difficulty controlling the airplane, lead to excessive nose-down attitude, significant altitude loss, and possible impact with terrain.

(f) Compliance

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

(g) Corrective Action

(1) Before further flight after the effective date of this AD, replace the AOA sensor with an improved AOA sensor, Aerosonic part number 4677-03 Mod 1 or Cirrus part number 32159-004 in accordance with section 11. ACCOMPLISHMENT INSTRUCTIONS, paragraphs A, B, and C of Cirrus Design Corporation SF50 Service Bulletin Number: SB5X-34-03, dated April 16, 2019.

(2) Before further flight after replacement of the AOA sensor per paragraph (g)(1) of this AD, perform final installation checkout procedures and flight tests in accordance with a method approved by the Manager, FAA, Chicago ACO Branch. For the checkout procedures and flight test to be approved by the Manager, FAA, Chicago ACO Branch as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

(3) As of the effective date of this AD, do not install any AOA sensor on any affected

airplane unless it is an improved AOA sensor as identified in paragraph (g)(1) of this AD.

(h) Special Flight Permit

A special flight permit is allowed with the following limitation: Operators may fly the airplane to a location where the modification/corrective action can be incorporated. However, the pilot must follow the procedures listed in section 4., Pilot Actions Required, in Cirrus SF50 Alert Service Advisory SA19-08, dated April 8, 2019.

(i) Alternative Methods of Compliance (AMOCs)

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

(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 further information about this AD, contact: Wess Rouse, Small Airplane Program Manager, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294-8113; fax: (847) 294-7834; email: wess.rouse@faa.gov.

(2) For additional information related to this AD, you may refer to Cirrus SF50 Alert Service Advisory SA19-08, dated April 8, 2019.

(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 the AD specifies otherwise.

(i) Cirrus Design Corporation SF50 Service Bulletin Number: SB5X-34-03, dated April 16, 2019.

(ii) Cirrus SF50 Alert Service Advisory SA19-08, dated April 8, 2019.

(3) For service information identified in this AD, contact Cirrus Worldwide Headquarters, 4515 Taylor Circle, Duluth, Minnesota, 55811; telephone: (800) 921-2737 or after hours (800) 921-2737; fax: (218) 788-3500; email: fieldservice@cirrusaircraft.com; internet: <https://cirrusaircraft.com/service-support/>.

(4) You may view this service information at FAA, Small Airplane Standards Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148. For information on the availability of this material at the FAA, call (816) 329-4148.

(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 Kansas City, Missouri, on June 10, 2019.

Melvin J. Johnson,

Aircraft Certification Service, Deputy Director, Policy and Innovation Division, AIR-601.

[FR Doc. 2019-12622 Filed 6-14-19; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2018-0220; Airspace Docket No. 17-AGL-24]

RIN 2120-AA66

Amendment and Revocation of Air Traffic Service (ATS) Routes in the Vicinity of Manistique, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies one VHF Omnidirectional Range (VOR) Federal airway (V-78) and removes one VOR Federal airway (V-224) in the vicinity of Manistique, MI. The FAA is taking this action due to the planned decommissioning of the Schoolcraft County, MI, VOR/Distance Measuring Equipment (VOR/DME) navigation aid (NAVAID), which provides navigation guidance for portions of the affected ATS routes. The Schoolcraft County VOR is being decommissioned in support of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 0901 UTC, August 15, 2019. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11C, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at http://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For

information on the availability of FAA Order 7400.11C at NARA, call (202) 741-6030, or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT:

Colby Abbott, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the National Airspace System route structure as necessary to preserve the safe and efficient flow of air traffic.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA-2018-0220 in the **Federal Register** (83 FR 12887; March 26, 2018), modifying V-78 and removing V-224 in the vicinity of Manistique, MI, due to the planned decommissioning of the Schoolcraft County, MI, VOR/DME. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document will be subsequently published in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13,

2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying the description of VOR Federal airway V-78 and removing VOR Federal airway V-224, due to the planned decommissioning of the Schoolcraft County, MI, VOR. The VOR Federal airway changes are described below.

V-78: V-78 extends between the Huron, SD, VOR/Tactical Air Navigation (VORTAC) and the Saginaw, MI, VOR/DME. The airway segment between the Escanaba, MI, VOR/DME and the Pellston, MI, VORTAC is removed. The unaffected portions of the airway remain as charted.

V-224: V-224 extends between the Sawyer, MI, VOR/DME and the Schoolcraft County, MI, VOR/DME. The airway is removed in its entirety.

The radials in the route description below are unchanged and stated in True degrees.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of modifying one VOR Federal airway and removing another near Manistique, MI qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts:

Policies and Procedures, paragraph 5-6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5-2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

§ 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V-78 [Amended]

From Huron, SD; Watertown, SD; Darwin, MN; Gopher, MN; INT Gopher 091° and Eau Claire, WI, 290° radials; Eau Claire; Rhinelander, WI; Iron Mountain, MI; to Escanaba, MI. From Pellston, MI; Alpena, MI; INT Alpena 232° and Saginaw, MI, 353° radials; to Saginaw.

* * * * *

V-224 [Removed]

Issued in Washington, DC, on June 5, 2019.

Rodger A. Dean Jr.,

Manager, Airspace Policy Group.

[FR Doc. 2019-12625 Filed 6-14-19; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2018-0769; Airspace
Docket No. 18-ASW-10]

RIN 2120-AA66

**Amendment of VOR Federal Airways
V-18, V-102, and V-278 in the Vicinity
of Guthrie, TX**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies VHF Omnidirectional Range (VOR) Federal airways V-18, V-102, and V-278 in the vicinity of Guthrie, TX. The FAA is taking this action due to the planned decommissioning of the Guthrie, TX, VOR/Tactical Air Navigation (VORTAC) navigation aid (NAVAID), which provides navigation guidance for portions of the affected air traffic service (ATS) routes. The Guthrie VORTAC is being decommissioned as part of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 0901 UTC, August 15, 2019. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11C, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at http://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11C at NARA, call (202) 741-6030, or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

FAA Order 7400.11, Airspace Designations and Reporting Points, is

published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the route structure in the National Airspace System as necessary to preserve the safe and efficient flow of air traffic.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** for Docket No. FAA-2018-0769 (83 FR 41021; August 17, 2018) to amend VOR Federal airways V-18, V-102, and V-278 due to the planned decommissioning of the Guthrie, TX, VORTAC. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.11C dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document would be subsequently published in the Order.

**Availability and Summary of
Documents for Incorporation by
Reference**

This document amends FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying VOR Federal airways V-18, V-102, and V-278. The planned decommissioning of the Guthrie, TX, VORTAC has made these actions necessary. The VOR Federal airway changes are outlined below.

V-18: V-18 extends between the Guthrie, TX, VORTAC and the Charleston, SC, VORTAC. The airway segment between the Guthrie, TX, VORTAC and the Millsap, TX, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

V-102: V-102 extends between the Salt Flat, TX, VORTAC and the Wichita Falls, TX, VORTAC. The airway segment between the Lubbock, TX, VORTAC and the Wichita Falls, TX, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

V-278: V-278 extends between the Texico, NM, VORTAC and the Vulcan, AL, VORTAC. The airway segment between the Plainview, TX, VOR/DME and the Bowie, TX, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of modifying VOR Federal airways V-18, V-102, and V-278 near Guthrie, TX, qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5-6.5a, which categorically excludes from

further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018 and effective September 15, 2018, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * *

V–18 [Amended]

From Millsap, TX; Glen Rose, TX; Cedar Creek, TX; Quitman, TX; Belcher, LA; Monroe, LA; Magnolia, MS; Meridian, MS; Crimson, AL; Vulcan, AL; Talladega, AL; Atlanta, GA; Colliers, SC; to Charleston, SC.

* * * *

V–102 [Amended]

From Salt Flat, TX; Carlsbad, NM; Hobbs, NM; to Lubbock, TX.

* * * *

V–278 [Amended]

From Texico, NM; to Plainview, TX. From Bowie, TX; Bonham, TX; Paris, TX; Texarkana, AR; Monticello, AR; Greenville, MS; Sidon, MS; Bigbee, MS; to Vulcan, AL.

Issued in Washington, DC, on June 5, 2019.

Rodger A. Dean Jr.,

Manager, Airspace Policy Group.

[FR Doc. 2019–12623 Filed 6–14–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–503]

Schedules of Controlled Substances: Placement of Brexanolone in Schedule IV

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Interim final rule, with request for comments.

SUMMARY: On March 19, 2019, the U.S. Food and Drug Administration (FDA) approved a new drug application for Zulresso (brexanolone). Brexanolone is chemically known as 3 α -hydroxy-5 α -pregnan-20-one and is also referred to as allopregnanolone. The Department of Health and Human Services (HHS) provided the Drug Enforcement Administration (DEA) with a recommendation that brexanolone be placed in schedule IV of the Controlled Substances Act (CSA). In accordance with the CSA, as revised by the Improving Regulatory Transparency for New Medical Therapies Act, DEA is hereby issuing an interim final rule placing brexanolone (including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible) in schedule IV of the CSA.

DATES: The effective date of this rulemaking is June 17, 2019. Interested persons may file written comments on this rulemaking in accordance with 21 U.S.C. 811(j)(3) and 21 CFR 1308.43(g). Electronic comments must be submitted, and written comments must be postmarked, on or before July 17, 2019. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

Interested persons may file a request for hearing or waiver of hearing in accordance with 21 U.S.C. 811(j)(3) and 21 CFR 1308.44. Requests for hearing and waivers of an opportunity for a

hearing or to participate in a hearing must be received on or before July 17, 2019.

ADDRESSES: To ensure proper handling of comments, please reference “Docket No. DEA–503” on all correspondence, including any attachments.

• **Electronic comments:** The Drug Enforcement Administration encourages that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <http://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon completion of your submission, you will receive a Comment Tracking Number for your comment. Please be aware that submitted comments are not instantaneously available for public view on *Regulations.gov*. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

• **Paper comments:** Paper comments that duplicate the electronic submission are not necessary and are discouraged. Should you wish to mail a paper comment *in lieu of* an electronic comment, it should be sent via regular or express mail to: Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, VA 22152.

• **Hearing requests:** All requests for hearing and waivers of participation must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for hearing and waivers of participation should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Lynnette M. Wingert, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrisette Drive, Springfield, Virginia 22152; Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received are considered part of the public record. They will, unless reasonable cause is given, be made available by the Drug Enforcement

Administration (DEA) for public inspection online at <http://www.regulations.gov>. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter. The Freedom of Information Act (FOIA) applies to all comments received. If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be made publicly available, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also place all of the personal identifying information you do not want made publicly available in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be made publicly available, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify the confidential business information to be redacted within the comment.

Comments containing personal identifying information and confidential business information identified as directed above will generally be made publicly available in redacted form. If a comment has so much confidential business information or personal identifying information that it cannot be effectively redacted, all or part of that comment may not be made publicly available. Comments posted to <http://www.regulations.gov> may include any personal identifying information (such as name, address, and phone number) included in the text of your electronic submission that is not identified as directed above as confidential.

An electronic copy of this document and supplemental information, including the complete Department of Health and Human Services and Drug Enforcement Administration eight-factor analyses, to this interim final rule are available at <http://www.regulations.gov> for easy reference.

Request for Hearing or Waiver of Participation in Hearing

Pursuant to 21 U.S.C. 811(a), this action is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of the Administrative Procedure Act (APA), 5 U.S.C. 551–559. 21 CFR 1308.41–1308.45; 21 CFR part 1316, subpart D. Interested persons may file requests for a hearing or notices of intent to

participate in a hearing in conformity with the requirements of 21 CFR 1308.44(a) or (b) and include a statement of interest in the proceeding and the objections or issues, if any, concerning which the person desires to be heard. Any interested person may file a waiver of an opportunity for a hearing or to participate in a hearing together with a written statement regarding the interested person's position on the matters of fact and law involved in any hearing as set forth in 21 CFR 1308.44(c).

All requests for a hearing and waivers of participation must be sent to the DEA using the address information provided above.

Legal Authority

Under the Improving Regulatory Transparency for New Medical Therapies Act (Pub. L. 114–89), which was signed into law on November 25, 2015, the Drug Enforcement Administration (DEA) is required to commence an expedited scheduling action with respect to certain new drugs approved by the FDA. As provided in 21 U.S.C. 811(j), this expedited scheduling is required where both of the following conditions apply: (1) The Secretary of the Department of Health and Human Services (Secretary of HHS or the Secretary) has advised DEA that a New Drug Application (NDA) has been submitted for a drug that has a stimulant, depressant, or hallucinogenic effect on the central nervous system (CNS), and that it appears that such drug has an abuse potential; and, (2) the Secretary recommends that DEA control the drug in schedule II, III, IV, or V pursuant to 21 U.S.C. 811(a) and (b). In these circumstances, the DEA is required to issue an interim final rule controlling the drug within 90 days.

The law further states that the 90-day timeframe starts the later of (1) the date DEA receives the HHS scientific and medical evaluation/scheduling recommendation or (2) the date DEA receives notice of the NDA approval by HHS. In addition, the law specifies that the rulemaking shall become immediately effective as an interim final rule without requiring the DEA to demonstrate good cause therefor. Thus, the purpose of subsection (j) is to speed the process by which DEA schedules newly approved drugs that are currently either in schedule I or not controlled (but which have sufficient abuse potential to warrant control) so that such drugs may be marketed without undue delay following FDA approval.¹

¹ Given the parameters of subsection (j), in DEA's view, it would not apply to a reformulation of a

Subsection (j) further provides that the interim final rule shall give interested persons the opportunity to comment and to request a hearing. After the conclusion of such proceedings, DEA must issue a final rule in accordance with the scheduling criteria of subsections 21 U.S.C. 811(b), (c), and (d) and 21 U.S.C. 812(b).

Background

Brexanolone (3 α -hydroxy-5 α -pregnan-20-one), also known as allopregnanolone, is a new molecular entity with central nervous system (CNS) depressant properties. Brexanolone is an inhibitory neurosteroidal substance structurally related to progesterone. Brexanolone shares a pharmacological mechanism of action with schedule IV substances such as diazepam and alprazolam and is a positive allosteric modulator of the gamma-aminobutyric acid type A (GABA-A) receptors.

On April 19, 2018, Sage Therapeutics (Sponsor) submitted an NDA for brexanolone to the FDA. On March 19, 2019, the DEA received notification that HHS/FDA approved, on that date, the NDA for Zulresso (brexanolone) injection, for intravenous use, to treat postpartum depression (PPD) in adult women. Zulresso is approved with a Risk Evaluation and Mitigation Strategy (REMS) and is available to patients through a restricted distribution program where a healthcare professional can only administer the drug in a certified healthcare facility.

Determination To Schedule Brexanolone

On March 19, 2019, the DEA received from the HHS a scientific and medical evaluation document (dated March 08, 2019) prepared by the FDA entitled "Basis for the Recommendation to Control Brexanolone and its Salts in schedule IV of the Controlled Substances Act." Pursuant to 21 U.S.C. 811(b), this document contained an eight-factor analysis of the abuse potential of brexanolone, along with the HHS's recommendation to control brexanolone under schedule IV of the CSA.

In response, the DEA reviewed the scientific and medical evaluation and scheduling recommendation provided by the HHS, along with all other relevant data, and completed its own eight-factor review document pursuant to 21 U.S.C. 811(c). The DEA concluded that brexanolone met the 21 U.S.C.

drug containing a substance currently in schedules II through V for which an NDA has recently been approved.

812(b)(4) criteria for placement in schedule IV of the CSA.

Pursuant to subsection 811(j), and based on the HHS recommendation, NDA approvals by HHS/FDA, and the DEA's determination, the DEA is issuing this interim final rule to schedule brexanolone as a schedule IV controlled substance under the CSA.

Included below is a brief summary of each factor as analyzed by the HHS and the DEA, and as considered by the DEA in its scheduling action. Please note that both the DEA and the HHS analyses are available in their entirety under "Supporting Documents" in the public docket for this interim final rule at <http://www.regulations.gov>, under Docket Number "DEA-503." Full analysis of, and citations to, the information referenced in the summary may also be found in the supporting and related material.

1. *Its Actual or Relative Potential for Abuse:* Brexanolone is a new molecular entity and is not currently available or marketed in any country; evidence regarding its diversion, illicit manufacturing, or deliberate ingestion is lacking. However, as stated by the HHS, brexanolone is related in action to schedule IV sedatives such as midazolam and alprazolam. It is thus reasonable to assume that brexanolone may be diverted from legitimate channels, used contrary to or without medical advice, and otherwise abused so as to create hazards to the users and to the safety of the community to an extent similar to that of schedule IV sedatives.

Pre-clinical and clinical studies show that brexanolone produces effects that are similar to schedule IV sedative-hypnotics, such as midazolam and alprazolam. Data obtained from general behavioral studies demonstrate that brexanolone produced a sedative effect. In a drug discrimination study in rats, brexanolone mimicked stimulus effects of midazolam at certain dosages. Brexanolone produced positive subjective responses and euphoria-related adverse events (AEs) similar to that of alprazolam (schedule IV) in nondependent and healthy humans with a history of recreational use of CNS depressants. Thus, brexanolone likely has abuse potential similar to that of schedule IV sedatives, such as midazolam and alprazolam, and it is likely to be abused for its sedative effects contrary to medical advice.

2. *Scientific Evidence of Its Pharmacological Effects, if Known:* Brexanolone, an inhibitory neurosteroid, shares a similar pharmacological profile to another inhibitory neurosteroid (alfaxalone, a

schedule IV controlled substance) and schedule IV benzodiazepines such as alprazolam and midazolam. Brexanolone, a metabolite of progesterone, acts on GABA-A receptors and enhances the effects of GABA. GABA is the major inhibitory neurotransmitter in the CNS. The GABA-A receptor is a ligand-gated chloride ion channel consisting of five subunits and a central chloride channel. Benzodiazepines and other GABAergic substances enhance the opening of the ligand-gated chloride channel and the influx of chloride. Brexanolone's ability to bind to GABA-related sites is consistent with the action of other related neurosteroids, such as alfaxalone.

Brexanolone, like schedule IV benzodiazepines, has sedative activity in animals. Acute and chronic administration of brexanolone to male and female rats and dogs elicited dose-dependent behaviors indicative of the sedative and muscle relaxation properties of the drug. In a drug discrimination study using male rats previously trained to discriminate midazolam, brexanolone produced interoceptive cues that are similar to those of midazolam. In human abuse potential studies, brexanolone produced subjective responses similar to that of alprazolam and may have a reinforcing effect at a higher infusion rate. The abuse-related neuropharmacology profile of brexanolone is similar to that of schedule IV substances (alprazolam and midazolam) and consistent with its mechanism of action as a positive allosteric modulator of the GABA-A receptors.

3. *The State of Current Scientific Knowledge Regarding the Drug or Other Substance:* Brexanolone is a new molecular entity. It is the established name for allopregnanolone, chemically known as 5 α -pregnan-3 α -ol-20-one (also known as 3 α -hydroxy-5 α -pregnan-20-one). It is insoluble in water, very slightly soluble in *n*-heptane, sparingly soluble in ethyl acetate, slightly soluble in methanol, soluble in 2-methyl-tetrahydrofuran, and freely soluble in tetrahydrofuran. Brexanolone drug product is formulated as a sterile, clear, colorless solution intended for dilution followed by intravenous infusion; and it contains brexanolone, Betadex Sulfobutyl Ether Sodium USP/NF (Captisol) as a solubilizer, citric acid and sodium citrate as buffering agents, and water for injection. The pH of the final bulk compounded solution is adjusted to 6.0 using either sodium hydroxide or hydrochloric acid.

4. *Its History and Current Pattern of Abuse:* There is no information on the

history and current pattern of abuse for brexanolone, since it has not been marketed, legally or illegally, in any country. The DEA conducted a search on the National Forensic Laboratory Information System (NFLIS)² and STARLiMS³ databases for brexanolone encounters. Consistent with the fact that brexanolone is a new molecular entity, these databases had no records of encounters by law enforcement.

HHS notes that brexanolone produces abuse-related signals and abuse potential similar to that of schedule IV benzodiazepines. In particular, the pharmacological mechanism of action of brexanolone involving a positive allosteric modulation of the GABA-A receptors suggests that its pattern of abuse would be similar to schedule IV sedative-hypnotics with similar mechanisms of action, such as midazolam and diazepam.

5. *The Scope, Duration, and Significance of Abuse:* As noted, brexanolone is not marketed, legally or illegally, in any country. Thus, information about the scope, duration, and significance of abuse for brexanolone is lacking. However, because of brexanolone's pharmacological similarities to certain schedule IV benzodiazepines, brexanolone is likely to be abused when available in the market with a scope, duration, and significance of abuse similar to those of schedule IV benzodiazepines.

6. *What, if any, Risk There Is to the Public Health:* The extent of abuse potential of a drug is an indication of its public health risk. Data from preclinical and clinical studies showed that brexanolone has abuse potential similar to that of certain schedule IV benzodiazepines. Therefore, upon availability for marketing, it is likely to pose a public health risk to a degree similar to schedule IV benzodiazepines. Data from clinical trials showed that brexanolone caused excessive sedation with occasional loss of consciousness and amnesia. In addition, transient apnea occurred in one patient at a suprathreshold dose. The HHS states that these adverse effects would likely occur in abusers of brexanolone.

² NFLIS is a national forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by state and local forensic laboratories in the United States.

³ STARLiMS is a web-based, commercial laboratory information management system that systematically collects results from drug chemistry analyses conducted by the DEA laboratories. On October 1, 2014, STARLiMS replaced the System to Retrieve Information from Drug Evidence (STRIDE) as the DEA laboratory drug evidence data system of record.

The brexanolone prescription product label states that concomitant use of opioids, antidepressants, or other CNS depressants such as benzodiazepines or alcohol may increase the possibility or severity of adverse reactions related to sedation. In addition, because of the risk of excessive sedation or sudden loss of consciousness, brexanolone is only available through a REMS program. A REMS is a drug safety program required by the FDA for certain medications with serious safety concerns to ensure the benefits of the medication outweighs its risks and is designed to reinforce medication use behaviors and actions that support the safe use of the medication.⁴

The abuse of brexanolone may present risks to the public health at a level similar to those associated with the abuse of schedule IV benzodiazepines, such as midazolam and alprazolam.

7. Its Psychic or Physiological Dependence Liability: The HHS review states that there were no physical dependence studies conducted in animals or humans using brexanolone. Brexanolone is pharmacologically similar to benzodiazepines that are known to produce physical dependence. Sleep disturbances, anxiety, and convulsions can occur upon discontinuation of chronic administration of benzodiazepines. Thus, it is likely brexanolone may have a physical dependence potential similar to that of benzodiazepines. Data from a dog toxicity study demonstrated that discontinuation of chronic administration of brexanolone led to convulsions, similar to the effect from discontinuing benzodiazepines. Because brexanolone produced positive subjective responses and euphoria-related AEs, it is likely to cause psychic dependence.

8. Whether the Substance Is an Immediate Precursor of a Substance Already Controlled under the CSA: Brexanolone is not an immediate precursor of any substance already controlled in the CSA.

Conclusion: After considering the scientific and medical evaluation conducted by the HHS, the HHS's recommendation, and its own eight-factor analysis, the DEA has determined that these facts and all relevant data constitute substantial evidence of a potential for abuse of brexanolone. As such, the DEA hereby schedules brexanolone as a controlled substance under the CSA.

Determination of Appropriate Schedule

The CSA lists the findings required to place a drug or other substance in any particular schedule (I, II, III, IV, or V). 21 U.S.C. 812(b). After consideration of the analysis and recommendation of the Assistant Secretary for Health of the HHS and review of all available data, the Acting Administrator of the DEA, pursuant to 21 U.S.C. 812(b)(4), finds that:

(1) Brexanolone has a low potential for abuse relative to the drugs or other substances in Schedule III.

Brexanolone, a neuroactive steroid, is a positive allosteric modulator of GABA-A receptors and produces sedation in general behavioral studies and locomotion study. In a drug discrimination study in animals, brexanolone was generalized to midazolam (schedule IV) at certain dosages, demonstrating it has GABA-A receptor agonist properties. In a human abuse potential (HAP) study, brexanolone produced positive subjective responses and euphoria-related AEs similar to those of alprazolam (schedule IV) in an HAP study. Furthermore, data from other clinical studies show that brexanolone produced abuse-related AEs, namely somnolence and sedation. Because brexanolone is similar to midazolam and alprazolam (both schedule IV controlled substances) in its abuse potential, brexanolone has a low potential for abuse relative to the drugs or other substances in schedule III.

(2) Brexanolone has a currently accepted medical use in the United States.

The FDA recently approved the NDA for brexanolone as an intravenous treatment of PPD in adult women. Thus, brexanolone has a currently accepted medical use for treatment in the United States.

(3) Abuse of Brexanolone may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

Brexanolone has a pharmacology profile similar to that of benzodiazepine drugs. Because abrupt discontinuation of benzodiazepines is associated with withdrawal symptoms, it is likely that brexanolone may have the potential to produce physical dependence similar to that produced by benzodiazepines. Data from a dog toxicity study demonstrated that discontinuation of chronic administration of brexanolone led to convulsions, similar to the effect from discontinuing benzodiazepines. In addition, because brexanolone produced positive subjective responses and

euphoria-related AEs, it is likely that brexanolone can produce psychic dependence. Thus, abuse of brexanolone may lead to limited physical or psychological dependence relative to the drugs or other substances in schedule III.

Based on these findings, the Acting Administrator of the DEA concludes that brexanolone, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible, warrants control in schedule IV of the CSA. 21 U.S.C. 812(b)(4).

Requirements for Handling Brexanolone

Brexanolone is subject to the CSA's schedule IV regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, dispensing, importing, exporting, research, and conduct of instructional activities and chemical analysis with, and possession involving schedule IV substances, including the following:

1. Registration. Any person who handles (manufactures, distributes, reverse distributes, dispenses, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses) brexanolone, or who desires to handle brexanolone, must be registered with the DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958 and in accordance with 21 CFR parts 1301 and 1312. Any person who currently handles or intends to handle brexanolone, and is not registered with the DEA, must submit an application for registration and may not continue to handle brexanolone, unless the DEA has approved that application for registration, pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312.

2. Disposal of stocks. Any person who does not desire or is not able to maintain a schedule IV registration must surrender all quantities of currently held brexanolone or may transfer all quantities of brexanolone to a person registered with the DEA in accordance with 21 CFR part 1317, in addition to all other applicable federal, state, local, and tribal laws.

3. Security. Brexanolone is subject to schedule III-V security requirements and must be handled and stored in accordance with 21 CFR 1301.71-1301.93.

4. Labeling and Packaging. All labels, labeling, and packaging for commercial containers of brexanolone must comply with 21 U.S.C. 825 and 958(e), and be in accordance with 21 CFR part 1302.

⁴ More information may be found at <https://www.fda.gov/Drugs/DrugSafety/REMS/default.htm>.

5. *Inventory.* Every DEA registrant who possesses any quantity of brexanolone must take an inventory of all stocks of brexanolone on hand, pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

Any person who becomes registered with the DEA to handle brexanolone must take an initial inventory of all stocks of controlled substances (including brexanolone) on hand on the date the registrant first engages in the handling of controlled substances, pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

After the initial inventory, every DEA registrant must take an inventory of all controlled substances (including brexanolone) on hand every two years, pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records and Reports.* DEA registrants must maintain records and submit reports for brexanolone, pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR parts 1304, 1312, and 1317.

7. *Prescriptions.* All prescriptions for brexanolone or products containing brexanolone must comply with 21 U.S.C. 829, and be issued in accordance with 21 CFR parts 1306 and 1311, subpart C.

8. *Manufacturing and Distributing.* In addition to the general requirements of the CSA and DEA regulations that are applicable to manufacturers and distributors of schedule IV controlled substances, such registrants should be advised that (consistent with the foregoing considerations) any manufacturing or distribution of brexanolone may only be for the legitimate purposes consistent with the drug's labeling, or for research activities authorized by the Federal Food, Drug, and Cosmetic Act and the CSA.

9. *Importation and Exportation.* All importation and exportation of brexanolone must be in compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312.

10. *Liability.* Any activity involving brexanolone not authorized by, or in violation of, the CSA or its implementing regulations, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Administrative Procedure Act

As explained above, under 21 U.S.C. 811(j), when a new drug is (1) approved

by the Department of Health and Human Services (HHS), and (2) HHS recommends control in CSA schedule II–V, the DEA shall issue an interim final rule scheduling the drug within 90 days. Additionally, the law specifies that the rulemaking shall become immediately effective as an interim final rule without requiring the DEA to demonstrate good cause. Therefore, the DEA has determined that the notice and comment requirements of section 553 of the APA, 5 U.S.C. 553, do not apply to this scheduling action.

Executive Orders 12866, 13563, and 13771, Regulatory Planning and Review, Improving Regulation and Regulatory Review, and Reducing Regulation and Controlling Regulatory Costs

In accordance with Public Law 114–89, this scheduling action is subject to formal rulemaking procedures performed “on the record after opportunity for a hearing,” which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth the procedures and criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget (OMB) pursuant to section 3(d)(1) of Executive Order 12866 and the principles reaffirmed in Executive Order 13563.

This interim final rule is not an Executive Order 13771 regulatory action pursuant to Executive Order 12866 and OMB guidance.⁵

Executive Order 12988, Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132, Federalism

This rulemaking does not have federalism implications warranting the application of Executive Order 13132. The rule does 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.

⁵ Office of Mgmt. & Budget, Exec. Office of The President, Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 Titled “Reducing Regulation and Controlling Regulatory Costs” (Feb. 2, 2017).

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule does not have tribal implications warranting the application of Executive Order 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 603(a), “[w]henver an agency is required by [5 U.S.C. 553], or any other law, to publish general notice of proposed rulemaking for any proposed rule, or publishes a notice of proposed rulemaking for an interpretive rule involving the internal revenue laws of the United States, the agency shall prepare and make available for public comment an initial regulatory flexibility analysis.” As noted in the above discussion regarding applicability of the APA, the DEA has determined that the notice and comment requirements of section 553 of the APA, 5 U.S.C. 553, do not apply to this scheduling action. Consequently, the Regulatory Flexibility Act does not apply to this interim final rule.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1501 *et seq.*, the DEA has determined that this action would not result in any Federal mandate that may result “in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted for inflation) in any one year.” Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information requirement under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. This action would not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

Congressional Review Act

This rule is not a major rule as defined by the Congressional Review Act (CRA), 5 U.S.C. 804. This rule will not result in: An annual effect on the economy of \$100,000,000 or more; a

major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based companies to compete with foreign based companies in domestic and export markets. However, pursuant to the CRA, the DEA has submitted a copy of this interim final rule to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, the DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

■ 2. Amend § 1308.14 by:

■ a. Redesignating paragraphs (c)(4) through (c)(55) as (c)(5) through (c)(56);

■ b. Adding new paragraph (c)(4).
The addition reads as follows:

§ 1308.14 Schedule IV.

* * * * *
(c) * * *

(4) Brexanolone	2400
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Dated: June 10, 2019.

Uttam Dhillon,

Acting Administrator.

[FR Doc. 2019-12721 Filed 6-14-19; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA-504]

Schedules of Controlled Substances: Placement of Solriamfetol in Schedule IV

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Interim final rule, with request for comments.

SUMMARY: On March 20, 2019, the U.S. Food and Drug Administration approved a new drug application for

SUNOSI, a drug product consisting of solriamfetol ((R)-2-amino-3-phenylpropyl carbamate hydrochloride) tablets for oral use. Thereafter, the Department of Health and Human Services provided the Drug Enforcement Administration (DEA) with a scheduling recommendation to place solriamfetol in schedule IV of the Controlled Substances Act (CSA). In accordance with the CSA, as revised by the Improving Regulatory Transparency for New Medical Therapies Act, DEA is hereby issuing an interim final rule placing solriamfetol, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible, in schedule IV of the CSA.

DATES: The effective date of this rulemaking is June 17, 2019. Interested persons may file written comments on this rulemaking in accordance with 21 U.S.C. 811(j)(3) and 21 CFR 1308.43(g). Electronic comments must be submitted, and written comments must be postmarked, on or before July 17, 2019. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

Interested persons may file a request for hearing or waiver of hearing in accordance with 21 U.S.C. 811(j)(3) and 21 CFR 1308.44. Requests for hearing and waivers of an opportunity for a hearing or to participate in a hearing must be received on or before July 17, 2019.

ADDRESSES: To ensure proper handling of comments, please reference “Docket No. DEA-504” on all correspondence, including any attachments.

• **Electronic comments:** The Drug Enforcement Administration encourages that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <http://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon completion of your submission, you will receive a Comment Tracking Number for your comment. Please be aware that submitted comments are not instantaneously available for public view on [Regulations.gov](http://www.regulations.gov). If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

• **Paper comments:** Paper comments that duplicate the electronic submission are not necessary and are discouraged.

Should you wish to mail a paper comment *in lieu of* an electronic comment, it should be sent via regular or express mail to: Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, VA 22152.

• **Hearing requests:** All requests for hearing and waivers of participation must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for hearing and waivers of participation should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Lynnette M. Wingert, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrisette Drive, Springfield, Virginia 22152; Telephone: (202) 598-6812.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received are considered part of the public record. They will, unless reasonable cause is given, be made available by the Drug Enforcement Administration (DEA) for public inspection online at <http://www.regulations.gov>. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter. The Freedom of Information Act (FOIA) applies to all comments received. If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be made publicly available, you must include the phrase “PERSONAL IDENTIFYING INFORMATION” in the first paragraph of your comment. You must also place all of the personal identifying information you do not want made publicly available in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be made publicly available, you must include the phrase “CONFIDENTIAL BUSINESS INFORMATION” in the first paragraph of your comment. You must also prominently identify the confidential business information to be redacted within the comment.

Comments containing personal identifying information and confidential business information identified as directed above will generally be made publicly available in redacted form. If a comment has so much confidential business information or personal identifying information that it cannot be effectively redacted, all or part of that comment may not be made publicly available. Comments posted to <http://www.regulations.gov> may include any personal identifying information (such as name, address, and phone number) included in the text of your electronic submission that is not identified as directed above as confidential.

An electronic copy of this document and supplemental information, including the complete Department of Health and Human Services and Drug Enforcement Administration eight-factor analyses, to this interim final rule are available at <http://www.regulations.gov> for easy reference.

Request for Hearing, or Waiver of Participation in Hearing

Pursuant to 21 U.S.C. 811(a), this action is a formal rulemaking “on the record after opportunity for a hearing.” Such proceedings are conducted pursuant to the provisions of the Administrative Procedure Act (APA), 5 U.S.C. 551–559. 21 CFR 1308.41–1308.45; 21 CFR part 1316, subpart D. Interested persons may file requests for a hearing or notices of intent to participate in a hearing in conformity with the requirements of 21 CFR 1308.44(a) or (b), and include a statement of interest in the proceeding and the objections or issues, if any, concerning which the person desires to be heard. Any interested person may file a waiver of an opportunity for a hearing or to participate in a hearing together with a written statement regarding the interested person’s position on the matters of fact and law involved in any hearing as set forth in 21 CFR 1308.44(c).

All requests for a hearing and waivers of participation must be sent to DEA using the address information provided above.

Legal Authority

Under the Improving Regulatory Transparency for New Medical Therapies Act (Pub. L. 114–89), which was signed into law on November 25, 2015, the DEA is required to commence an expedited scheduling action with respect to certain new drugs approved by the U.S. Food and Drug Administration (FDA). As provided in 21 U.S.C. 811(j), this expedited scheduling is required where both of the

following conditions apply: (1) The Secretary of the Department of Health and Human Services (Secretary of HHS or the Secretary) has advised DEA that a New Drug Application (NDA) has been submitted for a drug that has a stimulant, depressant, or hallucinogenic effect on the central nervous system, and that it appears that such drug has an abuse potential; and, (2) the Secretary recommends that DEA control the drug in schedule II, III, IV, or V pursuant to 21 U.S.C. 811(a) and (b). In these circumstances, DEA is required to issue an interim final rule controlling the drug within 90 days.

The law further states that the 90-day timeframe starts the later of (1) the date DEA receives the HHS scientific and medical evaluation/scheduling recommendation or (2) the date DEA receives notice of the NDA approval by HHS. In addition, the law specifies that the rulemaking shall become immediately effective as an interim final rule without requiring DEA to demonstrate good cause therefor. Thus, the purpose of subsection (j) is to speed the process by which DEA schedules newly approved drugs that are currently either in schedule I or not controlled (but which have sufficient abuse potential to warrant control) so that such drugs may be marketed without undue delay following FDA approval.¹

Subsection (j) further provides that the interim final rule shall give interested persons the opportunity to comment and to request a hearing. After the conclusion of such proceedings, DEA must issue a final rule in accordance with the scheduling criteria of subsections 21 U.S.C. 811(b), (c), and (d) and 21 U.S.C. 812(b).

Background

On December 20, 2017, Jazz Pharmaceuticals, Inc. (Sponsor) submitted an NDA to FDA for SUNOSI (solriamfetol) 75 and 150 mg oral tablets. FDA determined that solriamfetol is a new molecular entity, and HHS determined that solriamfetol has a stimulant effect on the central nervous system. On March 20, 2019, FDA approved the NDA for SUNOSI (solriamfetol) to improve wakefulness in adult patients with excessive daytime sleepiness associated with narcolepsy or obstructive sleep apnea (OSA).

¹ Given the parameters of subsection (j), in DEA’s view, it would not apply to a reformulation of a drug containing a substance currently in schedules II through V for which an NDA has recently been approved.

Determination To Schedule Solriamfetol

On March 19, 2019, DEA received from HHS a scientific and medical evaluation document (dated March 8, 2019) prepared by the FDA related to solriamfetol. Pursuant to 21 U.S.C. 811(b), this document contained an eight-factor analysis of the abuse potential of solriamfetol, along with HHS’ recommendation to control solriamfetol under schedule IV of the CSA. Subsequently, on March 20, 2019, DEA received notification from HHS that the FDA had approved an NDA for SUNOSI (solriamfetol).

In response, DEA reviewed the scientific and medical evaluation and scheduling recommendation provided by HHS, along with all other relevant data, and completed its own eight-factor review document pursuant to 21 U.S.C. 811(c). DEA concluded that solriamfetol met the 21 U.S.C. 812(b)(4) criteria for placement in schedule IV of the CSA.

Pursuant to subsection 811(j)—and based on the HHS recommendation, NDA approval by HHS/FDA, and DEA’s determination—the DEA is issuing this interim final rule to schedule solriamfetol as a schedule IV controlled substance under the CSA.

Included below is a brief summary of each factor as analyzed by HHS and DEA, and as considered by DEA in its scheduling action. Please note that both the DEA and HHS analyses are available in their entirety under “Supporting Documents” in the public docket for this interim final rule at <http://www.regulations.gov>, under Docket Number “DEA–504.” Full analysis of, and citations to, the information referenced in the summary may also be found in the supporting and related material.

1. *Its Actual or Relative Potential for Abuse:* Solriamfetol is a new molecular entity that has not been marketed in the United States or any other country. Thus, information about the diversion and actual abuse of solriamfetol is limited. Solriamfetol is currently not available for medical treatment, has not been diverted from legitimate sources, and individuals have not taken this substance in amounts sufficient to create a hazard to public health and safety. The DEA notes that there are no reports for solriamfetol in the National Forensic Laboratory Information System (NFLIS),² which collects drug

² The National Forensic Laboratory Information System (NFLIS) represents an important resource in monitoring illicit drug trafficking, including the diversion of legally manufactured pharmaceuticals into illegal markets. NFLIS is a comprehensive information system that includes data from forensic

identification results from drug cases submitted to and analyzed by state and local forensic laboratories. There were also no reports in STARLiMS,³ DEA's laboratory drug evidence data system of record.

As stated by HHS, solriamfetol is a stimulant that has low affinity for the human dopamine, serotonin, and norepinephrine transporters. In a clinical study investigating the abuse potential of solriamfetol, HHS concluded that solriamfetol produced subjective responses that were similar to those for the schedule IV stimulant phentermine.

2. Scientific Evidence of Its Pharmacological Effects, if Known: Solriamfetol primarily acts as a dopamine and norepinephrine reuptake inhibitor and does not bind to any other receptors that are typically associated with abuse, such as opioid or cannabinoid receptors, GABAergic, and other ion channels. According to HHS, general behavioral studies in animals indicate that solriamfetol produces stimulant effects such as an increase in locomotor activity and anorexic effects. However, in drug discrimination studies used to predict subjective effects in humans, solriamfetol at doses that do not severely impact motor responses did not mimic stimulus effects of schedule II substances amphetamine or cocaine. In a human abuse potential study, therapeutic doses of solriamfetol produced feelings of relaxation, hypervigilance, elevated mood, insomnia, and hyperhidrosis. These adverse events (AEs) are consistent with those of stimulant drugs and are also seen with phentermine, a schedule IV substance. In other clinical studies, adverse events such as anxiety, insomnia, and agitation were seen in subjects treated with solriamfetol. HHS concluded that the results from animal and human studies indicate that solriamfetol has low abuse potential similar to phentermine.

3. The State of Current Scientific Knowledge Regarding the Drug or Other Substance: Solriamfetol is a new

laboratories that handle more than 96% of an estimated 1.0 million distinct annual state and local drug analysis cases. NFLIS includes drug chemistry results from completed analyses only. While NFLIS data is not direct evidence of abuse, it can lead to an inference that a drug has been diverted and abused. See 76 FR 77330, 77332, Dec. 12, 2011. NFLIS data were queried 04/02/2019.

³ On October 1, 2014, the DEA implemented STARLiMS (a web-based, commercial laboratory information management system) to replace the System to Retrieve Information from Drug Evidence (STRIDE) as its laboratory drug evidence data system of record. DEA laboratory data submitted after September 30, 2014, are reposted in STARLiMS. STARLiMS data were queried on 04/02/2019.

molecular entity, chemically known as (R)-2-amino-3-phenylpropyl carbamate. It has a molecular formula of $C_{10}H_{14}N_2O_2$. Solriamfetol is a white to off-white solid that has a melting point between 183–189 °C. It is highly soluble in water at a pH between one and seven. On March 20, 2019, the FDA approved an NDA for solriamfetol for medical use to improve wakefulness in adult patients with excessive daytime sleepiness associated with narcolepsy or OSA. Thus, solriamfetol has an accepted medical use in the United States. Solriamfetol will be marketed as a once daily tablet and is available in strengths of 75 and 150 mg. The 75 mg tablet is functionally scored to permit a starting dose for patients with OSA of 37.5 mg once daily.⁴

4. Its History and Current Pattern of Abuse: There is no information available relating to the history and current pattern of abuse of solriamfetol, since this drug is not currently marketed in any country. HHS notes that solriamfetol produces abuse-related signals and abuse potential similar to that of schedule IV controlled substance phentermine.

The DEA conducted a search on the NFLIS and STARLiMS databases for solriamfetol encounters. Consistent with the fact that solriamfetol is a new molecular entity, these databases had no records of encounters of solriamfetol by law enforcement.

5. The Scope, Duration, and Significance of Abuse: Solriamfetol as a single active ingredient in a drug product is currently not marketed in any country. Thus, information on the scope, duration, and significance of abuse for solriamfetol is lacking. However, as HHS notes, data from preclinical and clinical studies summarized in factor 2 and epidemiological data indicate that the scope, duration, and significance of abuse for solriamfetol would be similar to those of phentermine, a schedule IV substance. As stated by HHS, data from animal and human studies indicate that solriamfetol has abuse potential similar to phentermine.

6. What, if any, Risk There is to the Public Health: The extent of abuse potential of a drug is an indication of its public health risk. Data from the preclinical and clinical studies suggest that the abuse potential and physical or psychological dependence of solriamfetol are similar to schedule IV substances such as phentermine.

⁴ https://www.accessdata.fda.gov/drugsatfda_docs/label/2019/211230s0001bl.pdf, accessed May 6, 2019.

7. Its Psychic or Physiological Dependence Liability: Physical dependence for solriamfetol was tested in animal toxicity studies and during Phase 3 clinical trials. According to HHS, animal toxicity studies in rats and dogs demonstrated no symptoms of withdrawal from discontinuation of the solriamfetol. In clinical studies, sudden cessation of solriamfetol produced a low percentage of adverse events that HHS concluded did not exhibit a consistent pattern of withdrawal symptoms. Based on these studies, HHS stated that solriamfetol does not appear to cause physical dependence.

8. Whether the Substance is an Immediate Precursor of a Substance Already Controlled under the CSA: Solriamfetol is not an immediate precursor of any controlled substance, as defined in 21 U.S.C. 802(23).

Conclusion: After considering the scientific and medical evaluation conducted by HHS, HHS' recommendation, and its own eight-factor analysis, the DEA has determined that these facts and all relevant data constitute substantial evidence of a potential for abuse of solriamfetol. As such, DEA hereby schedules solriamfetol as a controlled substance under the CSA.

Determination of Appropriate Schedule

The CSA outlines the findings required to place a drug or other substance in any particular schedule (I, II, III, IV, or V). 21 U.S.C. 812(b). After consideration of the analysis and recommendation of the Assistant Secretary for Health of HHS and review of all available data, the Acting Administrator of the DEA, pursuant to 21 U.S.C. 812(b)(4), finds that:

1. *Solriamfetol has a low potential for abuse relative to the drugs or other substances in schedule III.*

Receptor binding and functional studies demonstrate that solriamfetol acts as a dopamine and norepinephrine reuptake inhibitor that does not appear to bind to other receptors typically associated with abuse (e.g., opioid, cannabinoid, GABAergic, and other ion channels). Results from animal behavioral studies (using solriamfetol treated animals) demonstrated increases in locomotor activity, increases in awake time in the sleep-wake cycle, and anorexia, all of which may be indicative of abuse potential of solriamfetol. However, in drug discrimination studies used to predict subjective effects in humans, solriamfetol did not produce full generalization to cocaine or amphetamine. In a human abuse potential study, subjects treated with solriamfetol experienced adverse events

that were similar to that of the schedule IV stimulant phentermine. In phase 1 through 3 clinical trials, solriamfetol treated subjects exhibited low rates of adverse effects including insomnia, anxiety, and agitation. The data from preclinical and clinical studies indicate that solriamfetol has a low potential for abuse relative to other substances in schedule III. Solriamfetol has abuse potential similar to phentermine.

2. *Solriamfetol has a currently accepted medical use in the United States.*

The FDA recently approved solriamfetol to improve wakefulness in adult patients with excessive daytime sleepiness associated with narcolepsy or obstructive sleep apnea. Thus, solriamfetol has a currently accepted medical use in the United States.

3. *Solriamfetol may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.*

In animal toxicology studies, rats or dogs exposed to solriamfetol demonstrated no indication of physical dependence after abrupt discontinuation of the drug. This is consistent with the effects of amphetamine-like stimulant drugs, which produce psychological dependence, but little or no physical dependence. In clinical studies, subjects receiving solriamfetol reported an array of adverse events after discontinuation from the drug. However, there was no consistent pattern of withdrawal symptoms that would indicate physical dependence. In a human abuse potential study, solriamfetol increased drug liking scores that are significantly greater than that of placebo and are similar to or less than that of phentermine. These data collectively suggest that solriamfetol abuse may lead to limited psychological dependence relative to drugs in schedule III and largely similar to that of schedule IV stimulants.

Based on these findings, the Acting Administrator of DEA concludes that solriamfetol warrants control in schedule IV of the CSA. 21 U.S.C. 812(b)(4).

Requirements for Handling Solriamfetol

Solriamfetol is subject to the CSA's schedule IV regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, dispensing, importing, exporting, research, and conduct of instructional activities and chemical analysis with, and possession involving schedule IV substances, including, but not limited to, the following:

1. *Registration.* Any person who handles (manufactures, distributes, reverse distributes, dispenses, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses) solriamfetol, or who desires to handle solriamfetol, must be registered with the DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958 and in accordance with 21 CFR parts 1301 and 1312. Any person who currently handles or intends to handle solriamfetol, and is not registered with DEA, must submit an application for registration and may not continue to handle solriamfetol, unless DEA has approved the application for registration, pursuant to 21 U.S.C. 822, 823, 957, and 958 and in accordance with 21 CFR parts 1301 and 1312.

2. *Disposal of stocks.* Any person who does not desire or is not able to maintain a schedule IV registration must surrender all quantities of currently held solriamfetol, or may transfer all quantities of currently held solriamfetol to a person registered with DEA in accordance with 21 CFR part 1317, in addition to all other applicable federal, state, local, and tribal laws.

3. *Security.* Solriamfetol is subject to schedule III–V security requirements and must be handled and stored in accordance with 21 CFR 1301.71–93.

4. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of solriamfetol must comply with 21 U.S.C. 825 and 958(e) and be in accordance with 21 CFR part 1302.

5. *Inventory.* Every DEA registrant who possesses any quantity of solriamfetol must take an inventory of all stocks of solriamfetol on hand, pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

Any person who becomes registered with the DEA to handle solriamfetol must take an initial inventory of all stocks of controlled substances containing solriamfetol on hand on the date the registrant first engages in the handling of controlled substances, pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

After the initial inventory, every DEA registrant must take a new inventory of all stocks of controlled substances (including solriamfetol) on hand every two years, pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records and Reports.* Every DEA registrant must maintain records and submit reports for solriamfetol, pursuant to 21 U.S.C. 827 and 958(e), and in

accordance with 21 CFR parts 1304, 1312, and 1317.

7. *Prescriptions.* All prescriptions for solriamfetol or products containing solriamfetol must comply with 21 U.S.C. 829, and be issued in accordance with 21 CFR parts 1306 and 1311, subpart C.

8. *Manufacturing and Distributing.* In addition to the general requirements of the CSA and DEA regulations that are applicable to manufacturers and distributors of schedule IV controlled substances, such registrants should be advised that (consistent with the foregoing considerations) any manufacturing or distribution of solriamfetol may only be for the legitimate purposes consistent with the drug's labeling, or for research activities authorized by the Federal Food, Drug, and Cosmetic Act and the CSA.

9. *Importation and Exportation.* All importation and exportation of solriamfetol must be in compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312.

10. *Liability.* Any activity involving solriamfetol not authorized by, or in violation of, the CSA or its implementing regulations, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Administrative Procedure Act

Public Law 114–89 was signed into law, amending 21 U.S.C. 811. This amendment provides that in cases where a new drug is (1) approved by HHS and (2) HHS recommends control in CSA schedule II–V, DEA shall issue an interim final rule scheduling the drug within 90 days. Additionally, the law specifies that the rulemaking shall become immediately effective as an interim final rule without requiring DEA to demonstrate good cause. Therefore, DEA has determined that the notice and comment requirements of section 553 of the APA, 5 U.S.C. 553, do not apply to this scheduling action.

Executive Orders 12866, 13563, and 13771, Regulatory Planning and Review, Improving Regulation and Regulatory Review, and Reducing Regulation and Controlling Regulatory Costs

In accordance with Public Law 114–89, this scheduling action is subject to formal rulemaking procedures performed “on the record after opportunity for a hearing,” which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth the procedures and criteria for scheduling a drug or other substance.

Such actions are exempt from review by the Office of Management and Budget (OMB) pursuant to section 3(d)(1) of Executive Order 12866 and the principles reaffirmed in Executive Order 13563.

This interim final rule is not an Executive Order 13771 regulatory action pursuant to Executive Order 12866 and OMB guidance.⁵

Executive Order 12988, Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132, Federalism

This rulemaking does not have federalism implications warranting the application of Executive Order 13132. The rule does 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.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule does not have tribal implications warranting the application of Executive Order 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 603(a), “[w]hen an agency is required by [5 U.S.C. 553], or any other law, to publish general notice of proposed rulemaking for any proposed rule, or publishes a notice of proposed rulemaking for an interpretive rule involving the internal revenue laws of the United States, the agency shall prepare and make available for public comment an initial regulatory flexibility analysis.” As noted in the above discussion regarding applicability of the APA, the DEA has determined that the notice and comment requirements of section 553 of the APA, 5 U.S.C. 553, do not apply to this

scheduling action. Consequently, the Regulatory Flexibility Act does not apply to this interim final rule.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1501 *et seq.*, DEA has determined that this action would not result “in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted for inflation) in any one year.” Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information requirement under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. This action does not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

Congressional Review Act

This rule is not a major rule as defined by the Congressional Review Act (CRA), 5 U.S.C. 804. This rule does not result in: An annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based companies to compete with foreign based companies in domestic and export markets. However, pursuant to the CRA, DEA has submitted a copy of this interim final rule to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

- 2. Amend § 1308.14 by:
 ■ a. Redesignating paragraph (f)(12) as (f)(13);
 ■ b. Adding new paragraph (f)(12).
 The addition to read as follows:

§ 1308.14 Schedule IV.

* * * * *
 (f) * * *

(12) Solriamfetol (2-amino-3-phenylpropyl car-bamate; benzenepropanol, beta-amino-, carbamate (ester)) 1650
 * * * * *

Dated: June 10, 2019.

Uttam Dhillon,

Acting Administrator.

[FR Doc. 2019–12723 Filed 6–14–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9863]

RIN 1545–BO50

Modification of Discounting Rules for Insurance Companies

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations on discounting rules for unpaid losses and estimated salvage recoverable of insurance companies for Federal income tax purposes. The final regulations update and replace existing regulations to implement recent legislative changes to the Internal Revenue Code (Code) and make a technical improvement to the derivation of loss payment patterns used for discounting. The final regulations affect entities taxable as insurance companies.

DATES:

Effective Date: These regulations are effective June 17, 2019.

Applicability Date: For dates of applicability, see § 1.846–1(e)(2).

FOR FURTHER INFORMATION CONTACT:

Kathryn M. Sneade, (202) 317–6995 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 1 under section 846 of the Code. Section 846 was added to the Code by section 1023(c) of the Tax Reform Act of 1986, Public Law 99–514 (100 Stat. 2085, 2399). Final regulations under section 846 were published in the **Federal Register** (57 FR 40841) on

⁵ Office of Mgmt. & Budget, Exec. Office of The President, Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 Titled “Reducing Regulation and Controlling Regulatory Costs” (Feb. 2, 2017).

September 8, 1992 (T.D. 8433). See §§ 1.846–0 through 1.846–4 (1992 Final Regulations). The discounting rules under section 846 were amended for taxable years beginning after December 31, 2017, by section 13523 of the Tax Cuts and Jobs Act, Public Law 115–97 (131 Stat. 2054, 2152) (TCJA). The discounting rules of section 846, both prior to and after amendment by the TCJA, are used to determine discounted unpaid losses and estimated salvage recoverable of property and casualty (P&C) insurance companies and discounted unearned premiums of title insurance companies for Federal income tax purposes under section 832, as well as discounted unpaid losses of life insurance companies for Federal income tax purposes under sections 805(a)(1) and 807(c)(2).

The Department of the Treasury (Treasury Department) and the IRS published proposed regulations under section 846 (REG–103163–18) in the **Federal Register** (83 FR 55646) on November 7, 2018 (Proposed Regulations). The Treasury Department and the IRS received public comments on the Proposed Regulations and held a public hearing on December 20, 2018.

On January 7, 2019, the Treasury Department and the IRS published Rev. Proc. 2019–06, 2019–02 I.R.B. 284, which prescribes unpaid loss discount factors for the 2018 accident year and earlier accident years for use in computing discounted unpaid losses under section 846. The unpaid loss discount factors also serve as salvage discount factors for the 2018 accident year and earlier accident years for use in computing discounted estimated salvage recoverable under section 832. The discount factors prescribed in Rev. Proc. 2019–06 were determined under section 846, as amended by section 13523 of the TCJA, and the Proposed Regulations. In Rev. Proc. 2019–06, the Treasury Department and the IRS announced the intent to publish revised unpaid loss discount factors, if necessary, following the publication of the Proposed Regulations as final regulations. The Treasury Department and the IRS also announced the intent to issue guidance on the use of revised discount factors, including the adjustment to be taken into account by certain taxpayers that used the discount factors prescribed in Rev. Proc. 2019–06 in a taxable year ending before the date of publication of final regulations. The Treasury Department and the IRS requested and received public comments on Rev. Proc. 2019–06.

After consideration of all of the comments on the Proposed Regulations and Rev. Proc. 2019–06, the Proposed

Regulations are adopted as amended by this Treasury decision (Final Regulations).

Summary of Comments and Explanation of Revisions

This section discusses the public comments received on the Proposed Regulations and Rev. Proc. 2019–06, explains the revisions adopted by the Final Regulations in response to those comments, and describes guidance the Treasury Department and the IRS intend to issue following publication of the Final Regulations in the **Federal Register**.

1. Determination of Applicable Interest Rate

Under section 846(a)(2) and (c)(1), the “applicable interest rate” used to determine the discount factors associated with any accident year and line of business is the “annual rate” determined under section 846(c)(2).

Before amendment by section 13523(a) of the TCJA, section 846(c)(2) provided that the annual rate for any calendar year was a rate equal to the average of the applicable Federal mid-term rates (as defined in section 1274(d) but based on annual compounding) effective as of the beginning of each of the calendar months in the most recent 60-month period ending before the beginning of the calendar year for which the determination is made. The applicable Federal mid-term rate is determined by the Secretary based on the average market yield on outstanding marketable obligations of the United States with remaining periods of over three years but not over nine years. See section 1274(d)(1).

As amended by section 13523(a) of the TCJA, section 846(c)(2) provides that the annual rate for any calendar year will be determined by the Secretary based on the corporate bond yield curve (as defined in section 430(h)(2)(D)(i), determined by substituting “60-month period” for “24-month period” therein). The corporate bond yield curve, commonly referred to as the high quality market (HQM) corporate bond yield curve, is published on a monthly basis by the Treasury Department and the IRS. It reflects the average of monthly yields on investment grade corporate bonds with varying maturities that are in the top three quality levels available, and it consists of spot interest rates for each stated time to maturity. See, for example, Notice 2019–13, 2019–8 I.R.B. 580. The spot rate for a given time to maturity represents the yield on a bond that gives a single payment at that maturity. For the stated yield curve, times to maturity are specified at half-

year intervals from one-half year through 100 years. Section 846(c)(2) does not specify how the Secretary is to determine the annual rate for any calendar year based on the corporate bond yield curve.

Section 1.846–1(c) of the Proposed Regulations provides that the “applicable interest rate” used to determine the discount factors associated with any accident year and line of business is the “annual rate” determined by the Secretary for any calendar year on the basis of the corporate bond yield curve (as defined in section 430(h)(2)(D)(i), determined by substituting “60-month period” for “24-month period” therein). The annual rate for any calendar year is the average of the corporate bond yield curve’s monthly spot rates with times to maturity of not more than seventeen and one-half years (that is, when applied to the HQM corporate bond yield curve, times to maturity from one-half year to seventeen and one-half years), computed using the most recent 60-month period ending before the beginning of the calendar year for which the determination is made.

Consistent with the text of section 846, as amended by the TCJA, and the statutory structure as a whole, the Proposed Regulations provide for the use of a single annual rate applicable to all lines of business, as was the case under section 846 prior to amendment by the TCJA. Commenters agreed with this approach. One commenter asserted that a single rate approach continues to be mandated by the statutory language and Congressional intent. This commenter also noted that the use of a single rate is a continuance of longstanding practice related to the discounting of insurance loss reserves, and the TCJA did not specify a change to this practice.

The preamble to the Proposed Regulations states that the change from a rate based on the applicable Federal mid-term rates to a rate based on the corporate bond yield curve indicates that the annual rate should be determined in a manner that more closely matches the investments in bonds used to fund the undiscounted losses to be paid in the future by insurance companies. Several commenters agreed that the annual rate should be determined in a manner that more closely matches the investments of insurance companies.

The maturity range in the Proposed Regulations (that is, times to maturity from one-half year to seventeen and one-half years) was selected to produce a single discount rate that would provide approximately the same present

value of taxable income, in the aggregate, as would be obtained by applying the 60-month average corporate bond yield curve (forecast through 2028) directly to the future loss payments expected for each line of business (determined using the loss payment patterns applicable to the 2018 accident year). That is, the selected maturity range approximates, in terms of the present value of taxable income, the overall result of discounting each projected loss payment using the spot rate from the corporate bond yield curve with a time to maturity that matches the time between the end of the accident year and the middle of the year of the projected loss payment.

Several commenters expressed concern with the selection of the maturity range used to determine the single rate applicable to all unpaid losses for all lines of business under the Proposed Regulations. A commenter addressing the application of the Proposed Regulations to certain non-life insurance reserves held by life insurance companies requested a single section 846 discount rate determined by reference to shorter maturities than those specified in the Proposed Regulations to more clearly reflect the income of life insurance companies related to these reserves. Several commenters addressing the application of the Proposed Regulations to P&C insurance companies requested that the discount rate instead be determined by reference to the maturity range of three and one-half to nine years that was used under section 846 prior to amendment by the TCJA. Some of the commenters asserted a lack of clear congressional intent to use a different maturity range than the maturity range used under section 846 prior to amendment by the TCJA. The commenters also asserted that the shorter range with a lower average maturity would more closely match the maturity of the P&C insurance industry's investments and offered alternative approaches to selecting a maturity range should a different maturity range be selected.

Some of the commenters addressing the application of the Proposed Regulations to P&C insurance companies acknowledged that the annual rate calculated under the Proposed Regulations approximates the P&C industry's current investment yield in the current bond market. However, the commenters generally asserted that an annual rate based on the maturity range in the Proposed Regulations would overstate the industry's investment yield in other interest rate environments because the average maturity and average duration of the

bonds reflected in that segment of the HQM corporate bond yield curve are longer than both the average maturity and average duration of the industry's actual bond investments. The commenters asserted that the weighted average maturities of bonds held by P&C insurance companies are notably lower than the nine-year average of the maturity range suggested in the Proposed Regulations. According to one commenter, the weighted average maturities of bonds held by P&C insurance companies have ranged between 6.4 and 7.1 years since 2008. The commenters asserted that P&C companies generally do not seek to match the maturities of their investments with the expected payment dates of their liabilities. One commenter stated that P&C insurers' bond portfolios are more skewed to the short end of the curve to ensure sufficient liquidity to pay claims, especially for catastrophic events.

The commenters also explained that the average duration of bond payments held by P&C insurance companies (five to six years, according to data from one commenter) is shorter than the nine-year average payment duration of the bonds underlying the maturity range in the Proposed Regulations because P&C insurance companies typically invest in coupon bonds. Unlike the zero-coupon bonds reflected in the HQM corporate bond yield curve, coupon bonds have an average payment duration that is less than their maturity because of the periodic interest payments. Commenters asserted that the duration difference between coupon bonds and zero-coupon bonds is more pronounced in an environment with higher interest rates and a steeper yield curve.

One of the commenters requesting the use of a shorter maturity range (three and one-half to nine years) suggested that the annual rate should be determined in a manner that more closely matches the P&C insurance industry's investment yield. The commenter asserted that, in a rising rate environment, especially if there is a larger spread between the short-term and long-term rates, the longer maturity range in the Proposed Regulations would overstate the P&C insurance industry's investment yield. The commenter also asserted that the shorter maturity range would result in a better approximation of the P&C insurance industry's investment yield over a longer period of time and in different interest rate environments. The commenter suggested that if the shorter maturity range is not adopted, another approach would be to periodically adjust the maturity range. Under this

approach, every five years (that is, for each determination year under section 846(d)(4)), the Secretary would select the maturity range that best approximates the industry's investment yield based on publicly available P&C insurance industry aggregate investment yield data. However, other commenters expressed a preference for a fixed range.

Two of the commenters requesting the use of a shorter maturity range (three and one-half to nine years) suggested that the maturity range selected should more closely match the average maturity of the P&C insurance industry's bond investments. The commenters asserted that the average maturity of a range consisting of three and one-half to nine years more closely matches the six to seven-year average maturity of the industry's bond investments over the past decade than the nine-year average of the longer range in the Proposed Regulations. One commenter suggested that if the shorter maturity range is not adopted, an alternative could be to use the maturity range from one-half to thirteen years because that range also reflects average maturities that more closely match the investments in bonds used to fund the undiscounted losses of P&C insurance companies. Both commenters suggested that if the range in the Proposed Regulations is retained, a "guardrail" should place an upper limit on the maturities that are used when the bond yield curve is unusually steep. The commenters assert that use of the maturity range in the Proposed Regulations in such conditions would result in an annual rate that overstates the P&C insurance industry's investment yield due to the duration and maturity differences between the industry's bond investments and the bonds reflected in the HQM corporate bond yield curve segment selected in the Proposed Regulations. The commenters expressed particular concern that use of the maturity range in the Proposed Regulations would pose a threat to the industry's financial viability in times of economic stress because steep yield curves historically have occurred during or immediately after a recession and often coincide with a downturn in the underwriting cycle.

One commenter provided recommendations regarding the "guardrail" adjustment to be made to the annual rate and the circumstances in which it would apply. The commenter suggested that a guardrail adjustment should be made when the spread between the HQM corporate bond yields at the lower end (one-half year to maturity) and upper end (seventeen and one-half years to maturity) of the maturity range proposed in the

Proposed Regulations, measured on the basis of the 12-month average, is greater than 2.75 percentage points. The commenter explained that this “trigger” was selected because, compared to the other possible triggers considered by the commenter, it has the highest correlation to recession-related stress periods, it is simple to implement, and it does not result in undue volatility. The commenter suggested that the “guardrail” be an annual interest rate based on the 60-month average of a narrower range of bond maturities of one-half year to thirteen years. The commenter asserted that this trigger and guardrail adjustment proposal is reasonably simple, easily administrable, and predictable (for both the IRS and taxpayers) in its application.

After consideration of the comments received on the Proposed Regulations, the Treasury Department and the IRS have determined to use a single annual rate based on a narrower range of maturities. Specifically, the annual rate for any calendar year is the average of the corporate bond yield curve’s monthly spot rates with times to maturity from four and one-half years to ten years, computed using the most recent 60-month period ending before the beginning of the calendar year for which the determination is made. In response to comments expressing a preference for a fixed range, the Final Regulations do not provide for periodic redetermination of the maturity range used to determine the annual rate.

The maturity range of four and one-half years to ten years was selected in response to comments requesting the adoption of a narrower maturity range with an average maturity that more closely matches the six- to seven-year average maturity of the P&C insurance industry’s bond investments. Commenters expressed concern about the inclusion of the times-to-maturity at the upper end of the range in the Proposed Regulations, particularly when the bond yield curve is unusually steep. Therefore, the Final Regulations provide for a narrower maturity range than in the Proposed Regulations (from one-half year to seventeen and one-half years). Use of the narrower range eliminates yields for times-to-maturity at the lower and upper ends of the range in the Proposed Regulations from the calculation of an average annual rate.

The selected maturity range has an average maturity of seven and one-quarter years, which is closer to the average maturity of the industry’s bond investments than the nine-year average maturity of the maturity range in the Proposed Regulations. The Final Regulations do not adopt either of the

maturity ranges suggested by commenters (three and one-half to nine years and one-half to thirteen years) because the suggested ranges would typically understate the P&C industry’s investment yield as compared to the range adopted in the Final Regulations. P&C industry investment portfolios include assets other than high quality bonds, and the higher returns on those other assets typically result in the industry earning a higher rate of return. Therefore, the Final Regulations adopt a maturity range that has an average maturity that is slightly greater than the average maturity of the industry’s bond investments.

The Treasury Department and the IRS intend to publish guidance in the Internal Revenue Bulletin that will provide revised unpaid loss discount factors based on the Final Regulations for each property and casualty line of business for all accident years ending with or before calendar year 2018. The guidance will also provide that taxpayers may use either the revised discount factors or the discount factors published in Rev. Proc. 2019–06 for taxable years beginning after December 31, 2017, and ending before June 17, 2019. The guidance will describe the adjustment to be taken into account by any taxpayer that uses the discount factors prescribed in Rev. Proc. 2019–06 in a taxable year. See Rev. Proc. 2019–06. Taxpayers must use the revised discount factors in taxable years ending on or after June 17, 2019.

2. Discontinuance of Composite Method

The Treasury Department and the IRS proposed, in the preamble to the Proposed Regulations, to discontinue the use of the “composite method” described in section 3.01 of Rev. Proc. 2002–74, 2002–2 C.B. 980, and section V of Notice 88–100, 1988–2 C.B. 439.

Commenters suggested that the current rules permitting use of the composite method should be retained. The commenters explained that if the composite method were discontinued, compiling the data required to compute discounted unpaid losses with respect to accident years not separately reported on the National Association of Insurance Commissioners (NAIC) annual statement would prove to be difficult for some insurers given the limitations of company data for older accident years and legacy information technology systems. One of the commenters added that discontinuance of the composite method would cause burdensome reporting requirements for insurers.

In response to these comments, the Treasury Department and the IRS have

determined to continue to permit the use of the composite method and to continue to publish composite discount factors annually.

3. Smoothing Adjustments

Section 1.846–1(d)(1) of the Proposed Regulations provides that the loss payment pattern determined by the Secretary for each line of business generally is determined by reference to the historical loss payment pattern applicable to such line of business. However, under § 1.846–1(d)(1) and (2) of the Proposed Regulations, the Secretary may adjust the loss payment pattern for any line of business using a methodology described by the Secretary in other published guidance if necessary to avoid negative payment amounts and otherwise produce a stable pattern of positive discount factors less than one. As explained in section 2.03(4) of Rev. Proc. 2019–06, for the 2017 determination year, one line of business required adjustments under the Proposed Regulations.

Commenters expressed support for the smoothing adjustments described in the Proposed Regulations and Rev. Proc. 2019–06. Accordingly, the Final Regulations adopt § 1.846–1(d) as proposed.

4. Determination of Estimated Discounted Salvage Recoverable

Section 1.832–4(c) provides that, except as otherwise provided in guidance published by the Commissioner of Internal Revenue (Commissioner) in the Internal Revenue Bulletin, estimated salvage recoverable must be discounted either (1) by using the applicable discount factors published by the Commissioner for estimated salvage recoverable; or (2) by using the loss payment pattern for a line of business as the salvage recovery pattern for that line of business and by using the applicable interest rate for calculating unpaid losses under section 846(c). The Treasury Department and the IRS proposed, in the preamble to the Proposed Regulations, that estimated salvage recoverable be discounted by using the published discount factors applicable to unpaid losses. Section 4.02 of Rev. Proc. 2019–06 provides that the unpaid loss discount factors set forth therein also serve as salvage discount factors for the 2018 accident year and all prior accident years for use in computing discounted estimated salvage recoverable under section 832.

Commenters expressed support for the proposed use of the discount factors applicable to unpaid losses as the discount factors for salvage. This method is permitted under section

832(b)(5)(A) and § 1.832-4(c), and it should reduce compliance complexity and costs. Accordingly, future guidance published in the Internal Revenue Bulletin will continue to provide that estimated salvage recoverable is to be discounted using the published discount factors applicable to unpaid losses.

In the preamble to the Proposed Regulations, the Treasury Department and the IRS requested comments on whether net payment data (loss payments less salvage recovered) and net losses incurred data (losses incurred less salvage recoverable) should be used to compute loss discount factors. No commenters responded to this request. The Treasury Department and the IRS will continue to use payment data unreduced by salvage recovered and losses incurred data unreduced by salvage recoverable to compute loss discount factors.

5. Reinsurance and International Lines of Business

As described in the preamble to the Proposed Regulations, as a result of the repeal of former section 846(d)(3)(E) and (F) by section 13523 of the TCJA, section 846 no longer explicitly provides for the determination of loss payment patterns for non-proportional reinsurance and international lines of business extending beyond three calendar years following the accident year. The Proposed Regulations would remove § 1.846-1(b)(3)(iv) (applicable to non-proportional reinsurance business) and (b)(4) (applicable to international business) of the 1992 Final Regulations due to the repeal of former section 846(d)(3)(E) and (F). The Proposed Regulations would retain § 1.846-1(b)(3)(i) and (b)(3)(ii)(A) (applicable to proportional and non-proportional reinsurance, respectively) of the 1992 Final Regulations, however, because these rules are not affected by the repeal of former section 846(d)(3)(E) and (F).

Commenters agreed that the repeal of former section 846(d)(3)(E) and (F) means that the statute requires non-proportional reinsurance and international lines of business to be treated as short-tail lines of business with three-year loss payment patterns. The treatment of the non-proportional reinsurance and international lines of business as short-tail lines of business in Rev. Proc. 2019-06 is consistent with these comments.

Accordingly, § 1.846-1(b)(3)(iv) and (b)(4) of the 1992 Final Regulations are removed as proposed in the Proposed Regulations.

6. Other Changes

The Proposed Regulations would (1) remove § 1.846-1(a)(2) of the 1992 Final Regulations because the examples are no longer relevant; (2) remove § 1.846-1(b)(3)(ii)(B) and (b)(3)(iii) of the 1992 Final Regulations because these provisions apply only to accident years before 1992; (3) remove § 1.846-2 of the 1992 Final Regulations because section 13523 of the TCJA repealed the section 846(e) election; (4) remove § 1.846-3 because the “fresh start” and reserve strengthening rules therein are no longer applicable; (5) make conforming changes to § 1.846-1(a) and (b) of the 1992 Final Regulations to reflect the removal of various § 1.846-1 provisions, as well as the removal of §§ 1.846-2 and 1.846-3 of the 1992 Final Regulations; (6) remove § 1.846-4 of the 1992 Final Regulations, which provides applicability dates for §§ 1.846-1 through 1.846-3 of the 1992 Final Regulations, and adopt proposed § 1.846-1(e), which provides applicability dates for § 1.846-1; and (7) remove § 1.846-0 of the 1992 Final Regulations, which provides a list of the headings in §§ 1.846-1 through 1.846-4 of the 1992 Final Regulations.

Additionally, the Proposed Regulations would remove §§ 1.846-2T and 1.846-4T from the Code of Federal Regulations (CFR) because they are obsolete. On April 10, 2006, the Treasury Department and the IRS published in the **Federal Register** (71 FR 17990) a Treasury decision (T.D. 9257) containing §§ 1.846-2T and 1.846-4T. On January 23, 2008, the Treasury Department and the IRS published in the **Federal Register** (73 FR 3868) a Treasury decision (T.D. 9377) that finalized the rules contained in § 1.846-2T in § 1.846-2 and finalized the rules contained in § 1.846-4T in § 1.846-4. T.D. 9377, however, did not remove §§ 1.846-2T and 1.846-4T from the CFR.

No comments were received regarding any of these changes in the Proposed Regulations. Accordingly, these changes are adopted as proposed.

7. Change in Method of Accounting

The Treasury Department and the IRS plan to publish guidance in the Internal Revenue Bulletin that provides simplified procedures under section 446 and § 1.446-1(e) for an insurance company to obtain automatic consent of the Commissioner to change its method of accounting to comply with section 846, as amended by the TCJA, for the first taxable year beginning after December 31, 2017.

Special Analyses

I. Regulatory Planning and Review and Regulatory Flexibility Act

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. chapter 6), it is hereby certified that these final regulations will not have a significant economic impact on a substantial number of small entities that are directly affected by the final regulations. These final regulations update the 1992 Final Regulations to reflect statutory changes made by the TCJA, including the applicable interest rate to be used for purposes of section 846(c) based on a statutorily prescribed corporate bond yield curve. In addition, these final regulations do not impose a collection of information on any taxpayers, including small entities. Accordingly, this rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

II. 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.

III. Executive Order 13132: Federalism

Executive Order 13132 (titled “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.

Drafting Information

The principal author of these regulations is Kathryn M. Sneade, Office of Associate Chief Counsel (Financial Institutions and Products), IRS. However, other personnel from the Treasury Department and the IRS participated in their development.

Statement of Availability of IRS Documents

The IRS notices and revenue procedures cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <http://www.irs.gov>.

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 is amended by removing the entry for § 1.846-2(d), removing the entry for §§ 1.846-1 through 1.846-4, and adding an entry in numerical order for § 1.846-1. The addition reads in part as follows:

Authority: 26 U.S.C. 7805 * * *
* * * * *
Section 1.846-1 also issued under 26 U.S.C. 846.
* * * * *

§ 1.846-0 [Removed]

■ **Par. 2.** Section 1.846-0 is removed.

■ **Par. 3.** Section 1.846-1 is amended by:

■ 1. In the first sentence of paragraph (a)(1) removing “section 846(f)(3)” and adding in its place “section 846(e)(3)”.

■ 2. In the third sentence of paragraph (a)(1), removing the phrase “and § 1.846-3(b) contains guidance relating to discount factors applicable to accident years prior to the 1987 accident year”.

■ 3. In paragraph (a)(1), removing the last sentence.

■ 4. Removing paragraph (a)(2) and redesignating paragraphs (a)(3) and (4) as paragraphs (a)(2) and (3), respectively.

■ 5. In the first sentence of paragraph (b)(1), removing “section 846(f)(6)” and adding “section 846(e)(6)” in its place; and removing “, in § 1.846-2 (relating to a taxpayer’s election to use its own historical loss payment pattern)”.

■ 6. In paragraph (b)(3)(i), removing “for accident years after 1987” from the heading.

■ 7. In paragraph (b)(3)(ii), removing the designation “—(A)” and the paragraph heading “Accident years after 1991”.

■ 8. Removing paragraphs (b)(3)(ii)(B), and (b)(3)(iii) and (iv).

■ 9. Removing paragraph (b)(4) and redesignating paragraph (b)(5) as paragraph (b)(4).

■ 10. Adding paragraphs (c), (d), and (e). The additions read as follows:

§ 1.846-1 Application of discount factors.

* * * * *

(c) *Determination of annual rate.* The applicable interest rate is the annual rate determined by the Secretary for any calendar year on the basis of the corporate bond yield curve (as defined in section 430(h)(2)(D)(i), determined by substituting “60-month period” for “24-month period” therein). The annual rate for any calendar year is determined on the basis of a yield curve that reflects the average, for the most recent 60-month period ending before the beginning of the calendar year, of monthly yields on corporate bonds described in section 430(h)(2)(D)(i). The annual rate is the average of that yield curve’s monthly spot rates with times to maturity from four and one-half years to ten years.

(d) *Determination of loss payment pattern—(1) In general.* Under section 846(d)(1), the loss payment pattern determined by the Secretary for each line of business is determined by reference to the historical loss payment pattern applicable to such line of business determined in accordance with the method of determination set forth in section 846(d)(2) and the computational rules prescribed in section 846(d)(3) on the basis of the annual statement data from annual statements described in section 846(d)(2)(A) and (B). However, the Secretary may adjust the loss payment pattern for any line of business as provided in paragraph (d)(2) of this section.

(2) *Smoothing adjustments.* The Secretary may adjust the loss payment pattern for any line of business using a methodology described by the Secretary in other published guidance if necessary to avoid negative payment amounts and

otherwise produce a stable pattern of positive discount factors less than one.

(e) *Applicability dates.* (1) Except as provided in paragraph (e)(2) of this section, this section applies to taxable years beginning after December 31, 1986.

(2) Paragraphs (c) and (d) of this section apply to taxable years beginning after December 31, 2017.

§ 1.846-2 [Removed]

■ **Par. 4.** Section 1.846-2 is removed.

§ 1.846-2T [Removed]

■ **Par. 5.** Section 1.846-2T is removed.

§ 1.846-3 [Removed]

■ **Par. 6.** Section 1.846-3 is removed.

§ 1.846-4 [Removed]

■ **Par. 7.** Section 1.846-4 is removed.

§ 1.846-4T [Removed]

■ **Par. 8.** Section 1.846-4T is removed.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

Approved: May 21, 2019.

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2019-12172 Filed 6-13-19; 4:15 pm]

BILLING CODE 4830-01-P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2520

RIN 1210-AB62

Electronic Filing of Notices for Apprenticeship and Training Plans and Statements for Pension Plans for Certain Select Employees

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This document contains final regulations that revise the procedures for filing apprenticeship and training plan notices and “top hat” plan statements with the Secretary of Labor. The final regulations require electronic submission of these notices and statements, as opposed to paper filings. The final regulations will make filing these notices and statements easier and lower regulatory burdens on these plans. The final regulations also will enable the Department of Labor to make reported data more readily available to participants and beneficiaries and other

interested members of the public than in the past.

DATES: The final rule is effective August 16, 2019.

FOR FURTHER INFORMATION CONTACT:

Marjorie M. Kress or Thomas M. Hindmarch, Office of Regulations and Interpretations, Employee Benefits Security Administration, Department of Labor, at (202) 693-8500.

SUPPLEMENTARY INFORMATION:

A. Background

Part 1 of Title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA), contains reporting and disclosure requirements applicable to plans covered by ERISA. For instance, sections 103 and 104 of ERISA establish requirements for the publication and filing of annual reports, while sections 102 and 104 of ERISA require plan administrators to furnish summary plan descriptions and summaries of material modifications or changes to participants and beneficiaries.

Section 104(a)(3) of ERISA, however, authorizes the Secretary to exempt any welfare benefit plan from all or part of the reporting and disclosure obligations, or to provide simplified reporting and disclosure, if the Secretary finds that the requirements are inappropriate for these plans. Under this authority, the Secretary, in 1980, issued 29 CFR 2520.104-22, which provides an exemption from the reporting and disclosure provisions of Part 1 of Title I of ERISA for employee welfare benefit plans that provide only apprenticeship or training benefits, or both, if certain conditions are met.¹ Under this regulation, a welfare plan that provides only these benefits is not required to meet the requirements of Part 1 of Title I if the administrator files with the Secretary a notice as described in § 2520.104-22 by mail or personal delivery, takes steps reasonably designed to ensure that the information required to be contained in the notice is disclosed to employees of employers contributing to the plan who may be eligible to enroll, and makes the notice available to these employees upon request.

Similarly, section 110(a) of ERISA permits the Secretary to specify an alternative form of compliance with the reporting and disclosure obligations of Part 1 of Title I for any pension plan or class of pension plans subject to ERISA if certain findings are made. Under the authority of section 110(a), in 1975 the

Department issued 29 CFR 2520.104-23 to provide an alternative method of compliance with the reporting and disclosure requirements of Part 1 of Title I for unfunded or insured pension plans established for a select group of management or highly compensated employees (“top hat” plans).² Under the alternative method of compliance, the administrator of a top hat plan satisfies the requirements for the reporting and disclosure provisions of Part 1 of Title I by filing a statement with the Secretary by mail or personal delivery to the address specified in the regulation, and by providing plan documents, if any, to the Secretary upon request. The statement must include the information listed in the regulation.

On September 30, 2014, the Department published in the **Federal Register** a proposed rule that would revise the procedures for filing apprenticeship and training plan notices under § 2520.104-22 and top hat plan statements under § 2520.104-23 to require electronic submission of these notices and statements.³ On the same date, the Department also made available a new web-based filing system for these notices and statements.⁴ Use of this web-based filing system was voluntary until the adoption of this final rule. Approximately 65% of the apprenticeship and training plan notices and approximately 54% of the top hat plan statements have been filed electronically since then.⁵

In the proposal, the Department solicited comments on the electronic filing mandate as well as on the design and operation of its web-based filing system.⁶ The Department received one written comment, a copy of which is available under the “public comments” section of the Department’s website at <https://www.dol.gov/agencies/ebsa/laws-and-regulations/rules-and->

² 40 FR 34526, 34530, 34536 (Aug. 15, 1975).

³ 79 FR 58720.

⁴ Available at <https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing/e-file/tophat-plan-filing-instructions> (for top hat plans) and <https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing/e-file/apprenticeship-and-training-plan-filing-instructions> (for apprenticeship and training plan notices).

⁵ During the three year period from January 1, 2015, to December 31, 2017, 112 of the 171 apprenticeship and training plan notices and 2,964 of the 5,444 top hat plan statements filed with the Department were submitted electronically using the Department’s web-based filing system.

⁶ In the preamble to the proposal, the Department stated that notices and statements will be posted on EBSA’s website and explicitly requested public comment as to whether there are any concerns with making information in the notices and statements publicly accessible online. EBSA received no comments in response to this request.

[regulations/public-comments/1210-AB62](https://www.dol.gov/agencies/ebsa/public-comments/1210-AB62). Although this commenter applauded the Department for recognizing the benefits of electronic filing of these notices and statements, the comment letter focused primarily on the need (in this commenters’ view) for the Department to update its regulation pertaining to the use of electronic media by plan administrators to furnish disclosures to participants and beneficiaries. After careful consideration of the comment, the final rule amends 29 CFR 2520.104-22(c) (*i.e.*, apprenticeship and training plan notices) and 29 CFR 2520.104-23(c) (*i.e.*, top hat plan statements), as proposed.

B. Final Regulation

The final rule revises the current procedures for filing apprenticeship and training plan notices under § 2520.104-22 and top hat plan statements under § 2520.104-23 with the Secretary of Labor to require electronic submission of these notices and statements. The final rule does not change the current content requirements in either of these regulations.⁷ The final rule requires electronic filing with the Secretary through EBSA’s website in accordance with instructions published by the Department. Going forward, EBSA’s web-based filing system will be the exclusive method for filing these notices and statements; filings by mail or personal delivery will no longer be accepted. The new web-based system is designed to assist administrators by ensuring that all of the information required by the regulations is included in the notice or statement before the filing can be completed through the website. Upon submission of a completed filing, the new web-based filing system sends an electronic confirmation of receipt to the administrator. This confirmation is not available through the existing paper-based filing system. The design of the new filing system facilitates the requirement that plan administrators of apprenticeship and training plans make notices available to participants upon request as required under § 2520.104-22(a)(3). Filings are now available to the public on the Department’s website at <http://www.dol.gov/ebsa>.

⁷ The new web-based filing system requires filers to input an email address. Although neither regulation explicitly mentions an email address, the Department does not view this item as a content requirement of the regulations. Rather, the email address is needed for system functionality because without it the filer would not receive instantaneous confirmation of the filing.

¹ 40 FR 34526, 34529-34530, 34536 (Aug. 15, 1975); 45 FR 15527 (Mar. 11, 1980).

C. Regulatory Impact Analysis

1. Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing and streamlining rules, and promoting flexibility.

Under Executive Order 12866, “significant” regulatory actions are subject to the requirements of the executive order and review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as an action that is likely to result in a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as “economically significant”); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

OMB determined that this action is not “significant” within the meaning of section 3(f)(4) of the Executive Order, and therefore the rule was not reviewed by OMB under Executive Order 12866. The rule merely replaces the paper-based filing of apprenticeship and training plan notices and top hat plan statements with an electronic filing system and does not change the content of the notices and statements. Therefore, as discussed below, the Department has determined that this regulatory action will result in small cost savings that are attributable to reduced material and postage costs and time savings resulting from a more user-friendly filing system.

This final rule is not subject to E.O. 13771 because it is not significant under E.O. 12866.

2. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedures Act (5 U.S.C. 551 *et seq.*) and that are likely to have a significant economic impact on a substantial number of small entities. Unless an agency determines that a final rule is not likely to have a significant economic impact on a substantial number of small entities, section 604 of the RFA requires the agency to present a final regulatory flexibility analysis describing the rule’s impact on small entities and explaining its decision with respect to the application of the rule to small entities. Pursuant to section 605(b) of the RFA, the Department certified that the proposed rule did not have a significant economic impact on a substantial number of small entities and provided an analysis of the rationale for that certification. In the preamble of the proposed rule, the Department requested comments regarding the certification; however no comments were received. Based on the rationale set out in the proposal and the absence of any comments, the Department hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Section 610 of the RFA requires that an agency review each rule that has or will have a significant economic impact on a substantial number of small entities within ten years of publication of a final rule. EBSA initiates a Section 610 review to determine if the provisions of a rule should be continued without change, rescinded, or amended to minimize adverse economic impact on small entities. The preamble of the proposed rule requested comments on other possible changes or amendments to the two regulations (§§ 2520.104–22(c) and 2520.104–23(c)) that are the subject of this final rule. EBSA received no comments in response to this request.

3. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)), the Department’s proposed regulation, “Electronic Filing of Notices for Apprenticeship and Training Plans and Statements for Pension Plans for Certain Select Employees” solicited comments on the information collections included therein. The Department also submitted an information collection request (ICR)

to OMB in accordance with 44 U.S.C. 3507(d), contemporaneously with the publication of the proposed regulation, for OMB’s review. The Department received one comment that was supportive of the proposed changes to the information collections.

In connection with publication of this final regulation, the Department is submitting an ICR to OMB requesting approval of a revision to OMB Control Number 1210–0153. The Department will notify the public when OMB approves the revised ICR.

A copy of the ICR may be obtained by contacting the PRA Addressee: G. Christopher Cosby, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, Room N–5718, Washington DC 20210; telephone (202) 693–8410; fax: (202) 2195333. These are not toll-free numbers. ICRs submitted to OMB also are available at <http://www.Reginfo.gov>.

As stated earlier in this preamble, § 2520.104–22 provides an exemption to the reporting and disclosure provisions of Part 1 of Title I of ERISA for employee welfare benefit plans that provide only apprenticeship or training benefits, or both, if the plan administrator: (1) Files a notice with the Secretary that provides the name of the plan, the plan sponsor’s Employer Identification Number (EIN), the plan administrator’s name, and the name and location of an office or person from whom interested individuals can obtain certain information about courses offered by the plan; (2) takes steps reasonably designed to ensure that the information required to be contained in the notice is disclosed to employees of employers contributing to the plan who may be eligible to enroll in any course of study sponsored or established by the plan; and (3) makes the notice available to these employees upon request. Prior to the effective date, the plan administrator may file the notice with the Secretary by mailing or delivering it to the Department at the address in the regulation.

Section 2520.104–23 provides an alternative method of compliance with the reporting and disclosure provisions of Title I of ERISA for unfunded or insured plans established for a select group of management or highly compensated employees (*i.e.*, top hat plans). In order to satisfy the alternative method of compliance, the plan administrator must: (1) File a statement with the Secretary of Labor that includes the name and address of the employer, the employer EIN, a declaration that the employer maintains

a plan or plans primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees, and a statement of the number of such plans and the employees covered by each; and (2) make plan documents available to the Secretary upon request. Only one statement needs to be filed for each employer maintaining one or more of the plans. Prior to the effective date, the statements may be filed with the Secretary by mail or personal delivery.

The final rule replaces the paper-based filing of apprenticeship and training plan notices and top hat plan statements with an electronic filing system. No substantive changes have been made to the notices and statements. On average, the Department annually receives approximately 57 apprenticeship and training plan notices and approximately 1,815 top hat plan statement filings. The Department estimates in-house human resource professionals on average will spend 10 minutes preparing each filing on the Department's electronic filing system. Based on the foregoing, the total burden for filing is 9 hours for apprenticeship and training plan notice filings and 303 hours for top hat plan statement filings, resulting in an overall total of 312 burden hours. This reflects a 250-total-hour burden reduction (approximately \$11,000 equivalent cost) from the estimated hour burden associated with optional paper-based filing.

The Department assumes that no other cost burden is associated with this ICR, because in-house staff will prepare and electronically file the notices on behalf of each plan.

These paperwork burden estimates are summarized as follows:

Title: Alternate Reporting Methods for Apprenticeship and Training Plan Notices and Top Hat Plan Statements.

OMB Control Number: 1210-0153.

Affected Public: Private Sector—business or other for-profit and not-for-profit institutions.

Respondents: 1,872 (57 apprenticeship and training plans and 1,815 top hat plans).

Responses: 1,872.

Frequency of Response: Annually.

Estimated Total Annual Burden Hours: 312 (9 hours for apprenticeship and training plan notices and 303 hours for top hat plan statements).

Estimated Total Annual Burden Cost: \$0.

4. Congressional Review Act

The final rule is subject to the Congressional Review Act provisions of

the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) and will be transmitted to Congress and the Comptroller General for review. The final rule is not a “major rule” as that term is defined in 5 U.S.C. 804, because it is not likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, or Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

5. Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), as well as Executive Order 12875, this final rule does not include any Federal mandate that may result in expenditures by State, local, or tribal governments in the aggregate of more than \$100 million, adjusted for inflation, or increase expenditures by the private sector of more than \$100 million, adjusted for inflation.

6. Federalism Statement

Executive Order 13132 (August 4, 1999) outlines fundamental principles of federalism, and requires the adherence to specific criteria by Federal agencies in the process of their formulation and implementation of policies that have substantial direct effects on the States, the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. This final rule does not have federalism implications because it has no 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. Section 514 of ERISA provides, with certain exceptions specifically enumerated, that the provisions of Titles I and IV of ERISA supersede any and all laws of the States as they relate to any employee benefit plan covered under ERISA. The electronic filing requirements in this final rule do not alter the fundamental reporting and disclosure requirements of the statute for employee benefit plans, and, as such, have no implications for the States or the relationship or distribution of power

between the national government and the States.

List of Subjects in 29 CFR Part 2520

Employee benefit plans, Employee Retirement Income Security Act, Pension plans, Pension and welfare plans, Reporting and recordkeeping requirements, Welfare benefit plans.

For the reasons discussed in the preamble, the Department amends 29 CFR part 2520 as follows:

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

■ 1. The authority citation for part 2520 is revised to read as follows:

Authority: 29 U.S.C. 1021–1025, 1027, 1029–1031, 1059, 1134 and 1135. Secretary of Labor's Order 1–2011, 77 FR 1088 (January 9, 2012). Sec. 2520.101–2 also issued under 29 U.S.C. 1132, 1181–1183, 1181 note, 1185, 1185a–b, 1191, and 1191a–c. Secs. 2520.102–3, 2520.104b–1 and 2520.104b–3 also issued under 29 U.S.C. 1003, 1181–1183, 1181 note, 1185, 1185a–b, 1191, and 1191a–c. Secs. 2520.104b–1 and 2520.107 also issued under 26 U.S.C. 401 note, 111 Stat. 788. Sec. 2520.101–5 also issued under sec. 501 of Pub. L. 109–280, 120 Stat. 780, and sec. 105(a), Pub. L. 110–458, 122 Stat. 5092.

■ 2. Section 2520.104–22 is amended by revising paragraph (c) to read as follows:

§ 2520.104–22 Exemption from reporting and disclosure requirements for apprenticeship and training plans.

* * * * *

(c) The notice referred to in paragraph (a) of this section shall be filed with the Secretary electronically in accordance with the instructions published by the Department.

■ 3. Section 2520.104–23 is amended by revising paragraph (c) to read as follows:

§ 2520.104–23 Alternative method of compliance for pension plans for certain selected employees.

* * * * *

(c) *Electronic filing of statement.* Statements referred to in paragraph (b) of this section shall be filed with the Secretary electronically in accordance with the instructions published by the Department.

* * * * *

Signed this 31st day of May, 2019.

Preston Rutledge,

Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2019–12653 Filed 6–14–19; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[Docket No. USCG–2019–0321]

Multiple Safety Zones; Fireworks Displays in the Captain of the Port New York Zone**AGENCY:** Coast Guard, DHS.**ACTION:** Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone within the Captain of the Port New York Zone on the specified dates and times. This action is necessary to ensure the safety of vessels, spectators and participants from hazards associated with fireworks displays. During the enforcement periods, no person or vessel may enter the safety zone without permission of the Captain of the Port (COTP).

DATES: The regulation for the safety zone described in 33 CFR 165.160 will be enforced on the date and times listed in the table below.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of enforcement, call or email Petty Officer First Class Ronald Sampert U.S. Coast Guard; telephone 718–354–4197, email ronald.j.sampert@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones listed in 33 CFR 165.160 on the specified date and time as indicated in Table 1 below. This regulation was published in the **Federal Register** on November 9, 2011 (76 FR 69614).

TABLE 1

1. City of Poughkeepsie Independence Day, Poughkeepsie, NY, Hudson River Safety Zone, 33 CFR 165.160(5.13).	<ul style="list-style-type: none"> • Launch site: A barge located in approximate position 41°42'24.50" N, 073°56'44.16" W (NAD 1983), approximately 420 yards north of the Mid Hudson Bridge. This Safety Zone is a 300-yard radius from the barge. • Date: July 4, 2019. • Time: 9:00 p.m.–10:00 p.m.
2. Breezy Point Co-Op Inc., Rockaway Inlet Safety Zone, 33 CFR 165.160(2.9).	<ul style="list-style-type: none"> • Launch site: A barge located in approximate position 40°34'19.1" N, 073°54'43.5" W (NAD 1983). 1200 yards south of Point Breeze. This Safety Zone is a 360-yard radius from the barge. • Date: July 5, 2019. • Rain Date: July 6, 2019. • Time: 9:00 p.m.–10:00 p.m.
3. Peekskill Celebration, Peekskill Bay, Hudson River Safety Zone, 33 CFR 165.160(5.10).	<ul style="list-style-type: none"> • Launch site: A barge located in approximate position 41°17'16" N, 073°56'18" W (NAD 1983), approximately 670 yards north of Travis Point. This Safety Zone is a 360-yard radius from the barge. • Date: August 3, 2019. • Time: 9:30 p.m.–10:30 p.m.

Under the provisions of 33 CFR 165.160, vessels may not enter the safety zones unless given permission from the COTP or a designated representative. Spectator vessels may transit outside the safety zones but may not anchor, block, loiter in, or impede the transit of other vessels. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice of enforcement is issued under authority of 33 CFR 165.160(a) and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide mariners with advanced notification of enforcement periods via the Local Notice to Mariners and marine information broadcasts.

If the COTP determines that a safety zone need not be enforced for the full duration stated in this notice of enforcement, a Broadcast Notice to Mariners may be used to grant general permission to enter the safety zone.

Dated: May 15, 2019.

J.P. Tama,
Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2019–12729 Filed 6–14–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[Docket Number USCG–2019–0466]

RIN 1625–AA00**Safety Zone; Town of Hamburg Fireworks, Lake Erie, Hamburg, NY****AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 420-foot radius of the launch site located near Woodlawn Beach, Hamburg, NY. This safety zone is intended to restrict vessels from portions of Lake Erie during the Town of Hamburg fireworks display. The safety zone is necessary to protect mariners and vessels from potential hazards associated with a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Buffalo or a designated representative.

DATES: This rule is effective from 10 p.m. through 10:30 p.m. on July 3, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2019–0466 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 LT Sean Dolan, Chief Waterways Management Division, U.S. Coast Guard; telephone 716–843–9322, email D09-SMB-SECBuffalo-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION:**I. Table of Abbreviations**

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5

U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the event sponsor did not submit notice to the Coast Guard with sufficient time remaining before the event to publish an NPRM. Delaying the effective date of this rule to wait for a comment period to run would be impracticable and contrary to the public interest by inhibiting the Coast Guard’s ability to protect spectators and vessels from the hazards associated with a fireworks display.

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**. For the same reasons discussed in the preceding paragraph, waiting for a 30-day notice period to run would be impracticable and contrary to the public interest.

III. Legal Authority and Need for Rule

The legal basis for the rule is the Coast Guard’s authority to establish safety zones under 46 U.S.C. 70034 (previously 33 U.S.C. 1231), 70051; 33 CFR 1.05–1; 160.5; Department of Homeland Security Delegation No. 0170.1.

The Captain of the Port Buffalo (COTP) has determined that a fireworks display presents significant risks to the public safety and property. Such hazards include premature and accidental detonations, dangerous projectiles, and falling or burning debris. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone prior to, during, and immediately after the fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone from 10:00 p.m. through 10:30 p.m. on July 3, 2019. The safety zone will cover all navigable waters of Lake Erie at Woodlawn Beach, Hamburg, NY contained within a 420-foot radius of: 42°47′29.88″ N, 078°51′18.61″ W.

The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the fireworks event takes place. Entry into, transiting, or anchoring within the safety zone is

prohibited unless authorized by 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 conclusion that this rule is not a significant regulatory action. We anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Also, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the COTP.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the

reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and 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 establishes a temporary safety zone. It is categorically excluded from further review under paragraph L[60](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 AREAS

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

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

■ 2. Add § 165.T09–0466 to read as follows:

§ 165.T09–0466 Safety Zone; Town of Hamburg Fireworks, Lake Erie, Hamburg, NY.

(a) *Location.* The safety zone will encompass all waters of Lake Erie; Hamburg, NY contained within a 420-foot radius of: 42°47'29.88" N, 078°51'18.61" W.

(b) *Enforcement period.* The regulation in this section will be enforced from 10:00 p.m. through 10:30 p.m. on July 3, 2019.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16 or alternatively they may contact the Captain of the Port Buffalo via landline at 716–843–9525. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: June 11, 2019.

Joseph S. Dufresne,

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

[FR Doc. 2019–12674 Filed 6–14–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0446]

Safety Zone; Lake Pontchartrain, Mandeville, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a temporary safety zone for a fireworks display located on the navigable waters of Lake Pontchartrain near Mandeville, LA. This action is needed to provide for the safety of life on these navigable waterways during this event. During the enforcement period, the operator of any vessel in the safety zone must comply with directions from the Captain of the Port Sector New Orleans or a designated representative.

DATES: The regulations in 33 CFR 165.801, Table 5, line 16, will be enforced from 8:30 p.m. through 9:30 p.m. on June 29, 2019.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Lieutenant Commander Benjamin Morgan, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2281, email Benjamin.P.Morgan@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a temporary safety zone in 33 CFR 165.801, Table 5, line 16, for the Mandeville 4th of July fireworks display event. This regulation will be enforced from 8:30 p.m. through 9:30 p.m. on June 29, 2019. This action is needed to provide for the safety of life on these navigable waterways during this event. Our regulation for marine events within the Eighth Coast Guard District, 33 CFR 165.801, specifies the location of the regulated area on Lake Pontchartrain near Mandeville, LA. The fireworks display barge will be at the approximate position, 30°21'12.03" N 90°04'28.95" W. During the enforcement period, as reflected in § 165.801, if you are the operator of a vessel in the temporary safety zone, you must comply with directions from the Captain of the Port Sector New Orleans or a designated representative.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via a Broadcast Notice to Mariners.

Dated: June 6, 2019.
K.M. Luttrell,
Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.
 [FR Doc. 2019-12705 Filed 6-14-19; 8:45 am]
BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2019-0503]

Safety Zone; Menominee River, Marinette, WI

AGENCY: Coast Guard, DHS.
ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone on the Menominee River in Marinette, WI on June 15, 2019 from 10 a.m. through 3 p.m. This action is necessary and intended to protect the safety of life and property on navigable waterways before, during and after the launch of a naval vessel from Marinette Marine on the Menominee River in Marinette, WI. During the enforcement period, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter into, transit, or anchor within the safety zone while it is being enforced unless authorized by the Captain of the Port Lake Michigan or a designated representative.

DATES: The regulations in 33 CFR 165.929 will be enforced for safety zone (f)(13), Table 165.929, from 10 a.m. through 3 p.m. on June 15, 2019.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email marine event coordinator MSTC Kaleena Carpino, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI;

telephone (414) 747-7148, email *D09-SMB-SECLakeMichigan-WWM@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Operations at Marinette Marine Safety Zone listed as item (f)(13) in Table 165.929 of 33 CFR 165.929 on June 15, 2019 from 10 a.m. through 3 p.m. This action is being taken to protect the safety of life and property on navigable waterways of the Menominee River, WI.

The safety zone will encompass all waters of the Menominee river in the vicinity of Marinette Marine Corporation, from the Bridge Street Bridge located in position 45°06.188' N, 087°37.583' W; then approximately .95 NM south east to a line crossing the river perpendicularly passing through positions 45°05.881' N, 087°36.281' W and 45°05.725' N, 087°36.385' W (NAD 83). As specified in 33 CFR 165.929, all vessels must obtain permission from the Captain of the Port Lake Michigan or a designated representative to enter, move within or exit the safety zone while it is enforced. Vessels or persons granted permission to enter the safety zone must obey all lawful orders or directions of the Captain of the Port Lake Michigan or a designated representative.

This notice of enforcement is issued under authority of 33 CFR 165.929 and 5 U.S.C. 552 (a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification for the enforcement of this zone via Broadcast Notice to Mariners or Local Notice to Mariners.

The Captain of the Port Lake Michigan or a designated representative will inform the public through a Broadcast Notice to Mariners of any changes in the planned schedule. The Captain of the Port Lake Michigan or a representative may be contacted via Channel 16, VHF-FM or at (414) 747-7182.

Dated: June 12, 2019.
Thomas J. Stuhldreier,
Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.
 [FR Doc. 2019-12762 Filed 6-14-19; 8:45 am]
BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2012-1036]

Safety Zones, Recurring Marine Events in Captain of the Port Long Island Sound Zone

AGENCY: Coast Guard, DHS.
ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce ten safety zones in the Sector Long Island Sound area of responsibility on the date and time listed in the table below. This action is necessary to provide for the safety of life on navigable waterways during the events. During the enforcement periods, no person or vessel may enter the safety zones without permission of the Captain of the Port (COTP) Sector Long Island Sound or designated representative.

DATES: The regulation in 33 CFR 165.151, Table 1, will be enforced during the dates and times listed in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of enforcement, call or email Chief Petty Officer Katherine Linnick, Waterways Management Division, U.S. Coast Guard Sector Long Island Sound; telephone 203-468-4565, email *Katherine.E.Linnick@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones listed in 33 CFR 165.151, Table 1, on the following dates and times:

7.7 South Hampton Fresh Air Home Fireworks	<ul style="list-style-type: none"> • Date: July 5, 2019. • Rain Date: July 6, 2019. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of Shinnecock Bay, Southampton, NY in approximate position, 40°51'48" N, 072°26'30" W (NAD 83).
7.8 Westport Police Athletic League Fireworks	<ul style="list-style-type: none"> • Date: July 3, 2019. • Rain Date: July 5, 2019. • Time: 8:00 p.m. to 10:00 p.m. • Location: Waters off Compo Beach, Westport, CT in approximate position, 41°06'15" N, 073°20'57" W (NAD 83).
7.19 Jones Beach State Park Fireworks	<ul style="list-style-type: none"> • Date: July 4, 2019. • Time: 9:00 p.m. to 10:00 p.m.

	<ul style="list-style-type: none"> • Location: Waters off Jones Beach State Park, Wantagh, NY in approximate position 40°34'56.676" N, 073°30'31.186" W (NAD 83).
7.27 City of Long Beach Fireworks	<ul style="list-style-type: none"> • Date: July 5, 2019. • Rain Date: July 6–7, 2019. • Time: 9:00 p.m. to 10:00 p.m. • Location: Waters off Riverside Blvd., City of Long Beach, NY in approximate position 40°34'38.77" N, 073°39'41.32" W (NAD 83).
7.31 Clam Shell Foundation Fireworks	<ul style="list-style-type: none"> • Date: July 13, 2019. • Rain Date: July 14, 2019. • Time: 9:00 p.m. to 10:00 p.m. • Location: Waters of Three Mile Harbor, East Hampton, NY in approximate position 41°1'15.49" N, 072°11'27.50" W (NAD 83).
7.33 Groton Long Point Yacht Club Fireworks	<ul style="list-style-type: none"> • Date: July 20, 2019. • Rain Date: July 21, 2019. • Time: 9:00 p.m. to 10:00 p.m. • Location: Waters of Long Island Sound, Groton, CT in approximate position 41°18'05" N, 072°02'08" W (NAD 83).
7.34 Devon Yacht Club Fireworks	<ul style="list-style-type: none"> • Date: July 6, 2019. • Rain Date: July 7, 2019. • Time: 9:00 p.m. to 10:00 p.m. • Location: Waters of Napeague Bay, in Block Island Sound off Amagansett, NY in approximate position 40°59'41.40" N, 072°06'08.70" W (NAD 83).
7.40 Rowayton Fireworks	<ul style="list-style-type: none"> • Date: July 4, 2019. • Rain Date: July 5, 2019. • Time: 9:00 p.m. to 10:00 p.m. • Location: Waters of Long Island Sound south of Bayley Beach Park, Rowayton, CT in approximate position 41°03'11" N, 073°26'41" W (NAD 83).
8.4 Town of Babylon Fireworks	<ul style="list-style-type: none"> • Date: August 17, 2019. • Rain Date: August 18, 2019. • Time: 9:00 p.m. to 10:00 p.m. • Location: Waters off of Cedar Beach Town Park, Babylon, NY in approximate position 40°37'53" N, 073°20'12" W (NAD 83).

Under the provisions of 33 CFR 165.151, the events listed above are established as safety zones. During the enforcement period, persons and vessels are prohibited from entering into, transiting through, mooring, or anchoring within these safety zones unless they receive permission from the COTP or designated representative.

This notice of enforcement is issued under authority of 33 CFR 165 and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners or marine information broadcasts. If the COTP determines that these safety zones need not be enforced for the full duration stated in this notice of enforcement, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: May 7, 2019.

K.B. Reed,
Captain, U.S. Coast Guard, Captain of the Port Long Island Sound.

[FR Doc. 2019–12719 Filed 6–14–19; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0463]

RIN 1625-AA00

Safety Zone; City of Escanaba Fireworks, Little Bay De Noc, Escanaba, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters within a 700-foot radius of 45°44'15" N 87°02'54" W on Little Bay De Noc in Escanaba, MI. The safety zone is needed to protect personnel and vessels from potential hazards created by the outfall of the fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Lake Michigan or a designated representative.

DATES: This rule is effective from 9 p.m. through 11 p.m. on July 6, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2019–0463 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 the marine event coordinator, MSTC Kaleena Carpino, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148, email D09-SMB-SECLakeMichigan-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard’s ability to protect the public, vessels, mariners, and property from the hazards associated with the fireworks display on July 6, 2019.

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** for the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

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 Lake Michigan (COTP) will enforce a safety zone from 9 p.m. through 11 p.m. on July 6, 2019, for a fireworks display on Little Bay De Noc in Escanaba, MI. The Captain of the Port Lake Michigan has determined that this fireworks display will pose a significant risk to public safety and property. Such hazards include premature and accidental detonations, falling and burning debris, and collisions among spectator vessels.

IV. Discussion of the Rule

With the aforementioned hazards in mind, the Captain of the Port Lake Michigan has determined that this temporary safety zone is necessary to protect persons and vessels during the fireworks display in the waters of Little Bay De Noc in Escanaba, MI. This zone is effective and will be enforced from 9

p.m. through 11 p.m. on July 6, 2019. The safety zone will be enforced for all navigable waters within a 700-Foot radius of 45°44’15.9” N 87°02’54.6” W on Little Bay De Noc.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or his or her designated on-scene representative. The Captain of the Port or his or her designated on-scene representative may be contacted via VHF Channel 16.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. The safety zone created by this rule will be relatively small and enforced for only two hours. Under certain conditions, vessels may still transit through the safety zone when permitted by the Captain of the Port. Moreover, the Coast Guard will issue 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 certifies under 5 U.S.C. 605(b) that this rule will not have a

significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes,

or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and 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 only 2 hours that will prohibit entry within the established safety zone for the firework display. It is categorically excluded from further review under paragraph L[60](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 AREAS

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

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

■ 2. Add § 165.T09–0463 to read as follows:

§ 165.T09–0463 Safety Zone; City of Escanaba Fireworks, Little Bay De Noc, Escanaba MI.

(a) *Location* all navigable waters within a 700-foot radius of 45°44'15.9" N 87°02'54.6" W on Little Bay De Noc in Escanaba, MI.

(b) *Effective and enforcement period.* The rule in this section is effective and will be enforced from 9 p.m. through 11 p.m. on July 6, 2019.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or a designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or a designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port Lake Michigan is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Lake Michigan to act on his or her behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Lake Michigan or an on-scene representative to obtain permission to do so. The Captain of the Port Lake Michigan or an on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or an on-scene representative.

Dated: June 12, 2019.

Thomas J. Stuhle,
Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 2019–12769 Filed 6–14–19; 8:45 am]

[FR Doc. 2019–12769 Filed 6–14–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0285]

RIN 1625–AA00

Safety Zone; Upper Mississippi River, Mile Markers 614 to 615.5, Guttenberg, IA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the navigable waters of the Upper Mississippi River between mile markers (MM) 614 through MM 615.5 during a fireworks display on July 6, 2019. This action is necessary to provide for the safety of life on these navigable waters. This rule prohibits persons and vessels from entering the safety zone unless authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative.

DATES: This rule is effective from 9 p.m. to 11:30 p.m. on July 6, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2019–0285 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Christian Barger, Waterways Management Division, Sector Upper Mississippi River, U.S. Coast Guard; telephone 314–269–2560, email Christian.J.Barger@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule

without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. It is impracticable because we must establish this safety zone by July 6, 2019 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. The NPRM process would delay the establishment of the safety zone and compromise public safety.

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

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with the fireworks to be used in this fireworks display will be a safety concern for anyone on the Upper Mississippi River between Mile Marker (MM) 614 and MM 615.5. 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 fireworks event.

IV. Discussion of the Rule

This rule establishes a safety zone from 9 p.m. to 11:30 p.m. on July 6, 2019. The safety zone would cover all navigable waters on the Upper Mississippi River between MM 614 and MM 615.5. The duration of the zone is intended to ensure the safety of vessels on these navigable waters before, during, and after the scheduled fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The Coast Guard will inform the public of the enforcement date and times for this safety zone, as well as any emergent safety concerns that may delay the enforcement of the zone through Broadcast Notice to Mariners (BNM), Local Notices to Mariners (LNMs), and/or actual notice.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the safety zone. This regulatory action will impact one and one-half miles of the Upper Mississippi River between MM 614 and MM 615.5 for a period of 2 and one-half hours on one day. Additionally this rule will allow for vessels to seek permission to enter the zone on a case by case basis.

B. Impact on Small Entities

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

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental

jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a

State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01 and 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 2½ hours that will prohibit entry on the navigable waters of the Upper Mississippi River between MM 614 and MM 615.5. It is categorically excluded from further review under paragraph L60(a) of 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 AREAS

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

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

- 2. Add § 165.T08-0285 to read as follows:

§ 165.T08-0285 Safety Zone; Upper Mississippi River, Mile Markers 614 to 615.5, Guttenberg, IA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Upper Mississippi River between mile markers (MM) 614 and MM 615.5.

(b) *Period of enforcement.* This section will be enforced from 9 p.m. through 11:30 p.m. on July 6, 2019.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, persons and vessels are prohibited from entering the safety zone unless authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Upper Mississippi River.

(2) Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted by telephone at (314) 269-2332.

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

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the enforcement date and times for this safety zone, as well as any emergent safety concerns that may delay the enforcement of the zone through Broadcast Notice to Mariners (BNM), Local Notices to Mariners (LNMs), and/or actual notice.

S.A. Stoermer,

Captain, U.S. Coast Guard, Captain of the Port Sector Upper Mississippi River.

[FR Doc. 2019-12704 Filed 6-14-19; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2019-0309]

RIN 1625-AA00

Safety Zone; Tennessee River, Moors Resort and Marina Fireworks, Gilbertsville, KY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Tennessee River.

This action is necessary and intended to ensure safety of life on the navigable waters of the United States immediately prior to, during, and after a pyrotechnics display near Moors Resort and Marina, Gilbertsville, KY. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley or a designated representative.

DATES: This rule is effective from 8:45 p.m. to 9:45 p.m. on July 3, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2019-0309 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 about this rulemaking, call or email MST2 Dylan Caikowski, MSU Paducah, U.S. Coast Guard; telephone 270-442-1621 ext. 2120, email STL-SMB-MSUPaducah-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. It is impracticable to publish an NPRM because this safety zone must be established by July 3, 2019, and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

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 Sector Ohio Valley (COTP) has determined that potential

hazards associated with a pyrotechnics display on July 03, 2019, will be a safety concern for anyone within a 600 foot radius of the pyrotechnics display. This rule is needed to protect personnel and vessels in the navigable waters within the safety zone prior to, during, and after a pyrotechnics display.

IV. Discussion of the Rule

This rule establishes a safety zone from 8:45 p.m. until 9:45 p.m. on July 3, 2019. The safety zone will cover all navigable waters of the Tennessee River at mile marker 30.5 within a 600-foot radius from the fireworks launch site on the entrance jetty to Moors Resort and Marina in Gilbertsville, KY. The duration of the zone is intended to protect personnel and vessels in these navigable waters prior to, during, and after a pyrotechnic 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, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone, which will only impact a 600-foot radius designated area of the Tennessee River for one hour on July 03, 2019. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners (BNMs) via VHF-FM marine channel 16 to inform mariners about the zone, and the rule allows vessels to seek permission to enter 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 certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of

power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only one hour that will prohibit the entry of vessels and persons within a 600-foot radius of the entrance to Moors Resort and Marina at mile marker 30.5 on the Tennessee River in Gilbertsville, KY. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0309 to read as follows:

§ 165.T08–0309 Safety Zone; Tennessee River, Moors Resort and Marina Fireworks, Gilbertsville, KY.

(a) *Location.* The safety zone will cover all navigable waters of the Tennessee River at mile marker 30.5 within a 600-foot radius from the fireworks launch site on the entrance jetty to Moors Resort and Marina in Gilbertsville, KY.

(b) *Enforcement period.* The rule in this section will be enforced from 8:45 p.m. until 9:45 p.m. on July 3, 2019.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into this zone is prohibited unless authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative.

(2) Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or by phone at 502–779–5400.

(3) If permission is granted, all persons and vessels must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or a designated representative.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public through broadcast notices to mariners of any changes in the planned schedule.

Dated: June 11, 2019.

A.M. Beach,

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

[FR Doc. 2019–12763 Filed 6–14–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0487; FRL–9993–15]

24-Epibrassinolide; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of 24-epibrassinolide in or on all food commodities when used in accordance with label directions and good agricultural practices. Sunnton International Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 24-epibrassinolide under FFDCA.

DATES: This regulation is effective June 17, 2019. Objections and requests for hearings must be received on or before August 16, 2019, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0487, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs,

Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: BPPDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2017–0487 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before August 16, 2019. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior

notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2017-0487, by one of the following methods:

- *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- *Mail*: OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- *Hand Delivery*: To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

II. Background

In the **Federal Register** of December 15, 2017 (82 FR 59604) (FRL-9970-50), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 7F8599) by Sunnton International Inc., 901 H St., Suite 610, Sacramento, CA 95814. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of 24-epibrassinolide in or on all food commodities. That document referenced a summary of the petition prepared by the petitioner Sunnton International Inc., which is available in the docket via <http://www.regulations.gov>. There were no comments received in response to the notice of filing.

III. Final Rule

A. EPA's Safety Determination

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

FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance or tolerance exemption, and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue" Additionally, FFDCA section 408(b)(2)(D) requires that EPA consider "available information concerning the cumulative effects of [a particular pesticide's] . . . residues and other substances that have a common mechanism of toxicity."

EPA evaluated the available toxicity and exposure data on 24-epibrassinolide and considered its validity, completeness, and reliability, as well as the relationship of this information to human risk. EPA also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

24-epibrassinolide (24-Epi) is a naturally occurring brassinosteroid, which belongs to a class of plant steroid hormones. 24-epibrassinolide has been recently found to regulate seed germination, seedling growth, root development, and photosynthesis, and to enhance immune response against biotic and abiotic stressors. Like other brassinosteroids, 24-epibrassinolide is ubiquitously distributed in the plant kingdom at low concentrations in a variety of plant organs, including pollens, anthers, seeds, leaves, stems, roots, flowers and grains, and as a result, humans are exposed to this substance.

As a pesticide, 24-epibrassinolide is a synthetically produced brassinosteroid that is structurally similar to naturally occurring brassinosteroids and that is intended for use as a plant growth regulator (PGR) to improve crop quality and yield by promoting plant growth, defense, and development. Based on proposed label application rates, 24-epibrassinolide is applied at low concentrations, which is typical of a PGR.

Based on the data submitted in support of this petition and the comprehensive risk assessment conducted by the Agency (included in the Docket for this action), EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposures to

24-epibrassinolide, including dietary exposures from the consumption of food treated with this active ingredient in accordance with label directions and good agricultural practices, or food containing naturally occurring residues of 24-epibrassinolide, residues in drinking water, and other non-occupational exposures. EPA has made this determination because available toxicology data indicate that the active ingredient is not acutely toxic and, based upon a weight of the evidence (WOE) approach, it has been determined not to be a developmental toxicant, a mutagen, or toxic via repeat oral exposure (*i.e.* not subchronically toxic via the oral route). As such the Agency has not identified any endpoints of concern for 24-epibrassinolide and has conducted a qualitative assessment of exposure. The Agency has determined that residues of 24-epibrassinolide in drinking water are expected to be negligible since significant residues are not expected due to low application rates and currently proposed use patterns. Non-occupational exposures are anticipated because 24-epibrassinolide may be used in residential settings, such as turf, however, no toxicological endpoints have been identified. Therefore, a residential assessment was not conducted for 24-epibrassinolide. An explanation of the data upon which EPA relied and its risk assessment based on those data can be found within the April 15, 2019, document entitled "Federal Food, Drug, and Cosmetic Act (FFDCA) Safety Assessment for 24-epibrassinolide." This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES**.

Based on its safety determination, EPA is establishing an exemption from the requirement of a tolerance for residues of 24-epibrassinolide.

B. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes due to lack of concern for exposures, which supports the establishment of an exemption for residues of 24-epibrassinolide.

IV. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to EPA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled "Regulatory Planning and Review" (58 FR 51735, October 4, 1993). Because this action has been exempted from review under

Executive Order 12866, this action is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), nor is it a regulatory action under Executive Order 13771, entitled “Reducing Regulations and Controlling Regulatory Costs” (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

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

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, EPA has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require EPA’s consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology

Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: June 4, 2019.

Richard Keigwin,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Add § 180.1366 to subpart D to read as follows:

§ 180.1366 24-Epibrassinolide; exemption from the requirement of a tolerance.

Residues of the plant growth regulator 24-epibrassinolide in or on all food commodities are exempt from the requirement of a tolerance, when used in accordance with label directions and good agricultural practices.

[FR Doc. 2019–12743 Filed 6–14–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Parts 22 and 32

RIN 0906–AB20

Removing Outdated Regulations Regarding the National Hansen’s Disease Program

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This action removes the outmoded HHS regulations for the National Hansen’s Disease Program (NHDP). Due to superseding events and statutory changes, NHDP’s regulations are obsolete.

DATES: This action is effective July 17, 2019.

FOR FURTHER INFORMATION CONTACT: Jeri Pickett, Director, Division of National Hansen’s Disease Programs, 1770 Physicians Park Drive, Baton Rouge, Louisiana 70816, by phone at (225) 756–3774, or by email at jpickett@hrsa.gov.

SUPPLEMENTARY INFORMATION: In response to Executive Order 13563, Section 6(a), which urges agencies to repeal existing regulations that are outmoded from the Code of Federal Regulations (CFR), HHS is removing 42 CFR 22.1 and 42 CFR part 32. HHS believes that there is good cause to bypass notice and comment and proceed to a final rule, pursuant to 5 U.S.C. 553(b)(B). The action is non-controversial, as it merely removes obsolete provisions from the CFR. This rule poses no new substantive requirements on the public. Thus, we view notice and comment as unnecessary.

Background

Regulations pertaining to the NHDP appear at 42 CFR 22.1, “Hansen’s Disease Duty by Personnel Other than Commissioned Officers” and 42 CFR part 32, “Medical Care for Persons with Hansen’s Disease and Other Persons in Emergencies.” The NHDP regulation at Part 22.1 was originally published at 50 FR 43146 (October 24, 1985) and was superseded by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Public Law 99–272 (April 7, 1986). The NHDP regulations under Part 32 were originally published at 40 FR 25816 (June 19, 1975), and later amended by 40 FR 36774 (August 22, 1975), 46 FR 51918 (October 23, 1981), and 48 FR 10318 (March 11, 1983). The NHDP authorizing statute was substantially amended after these regulations were promulgated. *See* 42 U.S.C. 247e; Public Law 105–78 (Nov. 13, 1997), *amended by* Public Law 107–220 (Aug. 21, 2002).

For the reasons indicated below, the regulations at 42 CFR 22.1 and 42 CFR part 32 are outdated, unnecessary, and/or redundant. First, as noted above, Section 22.1 was superseded by Public Law 99–272. Second, Part 32 references a Public Health Service Hospital in Carville, Louisiana, but there is no longer a Public Health Services Hospital in Carville, Louisiana. *See* 42 CFR 32.86–.87. Third, section 32.1 references “the Director, Bureau of Health Care Delivery and Assistance.” This Bureau no longer exists at HRSA, and other terms set forth in section 32.1 are defined elsewhere in the Public Health Service Act. *See* 42 U.S.C. 201. Fourth, the NHDP

authorizing statute, 42 U.S.C. 247e, only permits the Secretary to provide short-term care and treatment, including outpatient care, for Hansen's Disease and related complications at or through the National Hansen's Disease Programs Center, with the limited exception of a small number of patients who were patients of the Gillis W. Long Hansen's Disease Center as of October 1, 1996. However, Part 32 references inpatient care, hospitals, hospitalization, discharge, and hospitalized non-beneficiaries. *See, e.g.*, 42 CFR 32.6, 32.86, 32.87, 32.89 32.91, and 32.111. Fifth, section 32.90 contains provisions regarding notification to health authorities but such notifications have been rendered obsolete in light of changes in management of the disease. Lastly, the NHDP can rely upon statutory authority to continue to operate in the absence of the regulations at part 22.1 and 32. In light of the foregoing, we are rescinding the regulations promulgated under 42 CFR 22.1, "Hansen's Disease Duty by Personnel Other than Commissioned Officers" and 42 CFR part 32, "Medical Care for Persons with Hansen's Disease and Other Persons In Emergencies". We will continue to operate the NHDP relying on statutory authority alone.

Executive Orders 12866, 13563, 13771, and 13777

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as "any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in th[e] Executive Order."

A regulatory impact analysis must be prepared for major rules with economically significant effects (\$100 million or more in any 1 year). HHS submits that this final rule is not economically significant as measured by the \$100 million threshold, and hence not a major rule under the Congressional Review Act. This rule has not been designated as a significant regulatory action as defined by Executive Order 12866. As such, it has not been reviewed by the Office of Management and Budget.

Executive Order 13771, titled "Reducing Regulation and Controlling Regulatory Costs," was issued on January 30, 2017. Pursuant to Executive Order 13771, HHS identifies this final rule as a deregulatory action (*i.e.*, removing an obsolete rule from the Code of Federal Regulations). For the purposes of Executive Order 13771, this final rule is not a substantive rule; rather it is administrative in nature and provides no cost savings.

On February 24, 2017, the President issued Executive Order 13777 titled "Enforcing the Regulatory Reform Agenda". As required by Section 3 of the Executive Order, HHS established a Regulatory Reform Task Force (HHS Task Force) to review existing regulations and make recommendations regarding their repeal, replacement, or modification. The HHS Task Force evaluated the NHDP regulations at 42 CFR 22.1 and 42 CFR 32 and determined them to be outdated, unnecessary, or ineffective. Thus, the HHS Task force advised initiating this final rule to remove the obsolete regulations from the Code of Federal Regulations.

Regulatory Flexibility Act

This action will not have a significant impact on a substantial number of small entities. Therefore, the regulatory flexibility analysis provided for under the Regulatory Flexibility Act is not required.

Paperwork Reduction Act

This action does not affect any information collections.

Dated: May 20, 2019.

George Sigounas,

Administrator, Health Resources and Services Administration.

Approved: June 7, 2019.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

List of Subjects

42 CFR Part 22

Diseases, Government employees, Health professions, Wages.

42 CFR Part 32

Diseases, Health care.

For reasons stated in the preamble, 42 CFR parts 22 and 32 are amended as follows:

PART 22—PERSONNEL OTHER THAN COMMISSIONED OFFICERS

- 1. The authority citation for part 22 continues to read as follows:

Authority: Sec. 208(e) of the Public Health Service Act, 42 U.S.C. 210(e); E.O. 11140, 29 FR 1637.

§ 22.1 [Removed]

- 2. Section 22.1 is removed.

PART 32—[REMOVED]

- 3. Under the authority of 5 U.S.C. 301, part 32 is removed.

[FR Doc. 2019–12578 Filed 6–14–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 60

RIN 0906–AB21

Removing Outmoded Regulations Regarding the Health Education Assistance Loan (HEAL) Program

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This action removes the outmoded HHS regulations for the HEAL Program. As of July 1, 2014, this program transferred from HHS to the Department of Education (ED). On November 15, 2017, ED published HEAL Program regulations within its own regulatory framework. With the publication of ED's regulations, the HHS HEAL Program regulations are rendered obsolete.

DATES: This rule is effective July 17, 2019.

FOR FURTHER INFORMATION CONTACT:

Michelle Goodman, Public Health Analyst, Division of Policy and Shortage Designation, Bureau of Health Workforce, HRSA, 5600 Fishers Lane, Room 11W54, Rockville, MD 20857, by phone at (301) 443-7440, or by email at mgoodman@hrsa.gov.

SUPPLEMENTARY INFORMATION:

In response to Executive Order 13563, Section 6(a), which urges agencies to repeal existing regulations that are outmoded from the Code of Federal Regulations (CFR), HHS is removing 42 CFR part 60. HHS believes that there is good cause to bypass notice and comment and proceed to a final rule, pursuant to 5 U.S.C. 553(b)(B). The action is non-controversial, as it merely removes an obsolete provision from the CFR. This rule poses no new substantive requirements on the public. Thus, we view notice and comment as unnecessary.

Background

The HEAL Program is authorized by sections 701-720 of the Public Health Service Act (the Act), 42 U.S.C. 292-292p, and was first administered by the Office of Education in the former Department of Health, Education, and Welfare (HEW). From Fiscal Year (FY) 1978 through FY 1998, the HEAL Program insured loans made by participating lenders to eligible graduate students in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, public health, pharmacy, and chiropractic, and in programs in health administration and clinical psychology.

The HEAL Program regulations were originally published on August 26, 1983. Authorization to fund new HEAL loans to students expired on September 30, 1998. Provisions of the HEAL legislation allowing for the refinancing or consolidation of existing HEAL loans expired on September 30, 2004. However, the reporting, notification, and recordkeeping burden associated with refinancing HEAL loans, servicing outstanding loans, and administering and monitoring of the HEAL Program regulations continues.

On July 1, 2014, Congress transferred the program to ED pursuant to Division H, title V, section 525 of the Consolidated Appropriations Act, 2014 (Pub. L. 113-76) (Consolidated Appropriations Act, 2014). On November 15, 2017, ED published HEAL Program regulations rendering the HHS HEAL Program regulations obsolete. See 82 FR 53378 (adding 34 CFR part 681).

Executive Orders 12866, 13563, 13771, and 13777

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in th[e] Executive Order.”

A regulatory impact analysis must be prepared for major rules with economically significant effects (\$100 million or more in any 1 year). HHS submits that this final rule is not economically significant as measured by the \$100 million threshold, and hence not a major rule under the Congressional Review Act. This rule has not been designated as a significant regulatory action as defined by Executive Order 12866. As such, it has not been reviewed by the Office of Management and Budget.

Executive Order 13771, titled “Reducing Regulation and Controlling Regulatory Costs,” was issued on January 30, 2017. Pursuant to Executive Order 13771, HHS identifies this final rule as a deregulatory action (*i.e.*, removing an obsolete rule from the Code of Federal Regulations). For the purposes of Executive Order 13771, this final rule is not a substantive rule; rather it is administrative in nature and provides no cost savings.

On February 24, 2017, the President issued Executive Order 13777 titled “Enforcing the Regulatory Reform Agenda”. As required by Section 3 of the Executive Order, HHS established a Regulatory Reform Task Force (HHS Task Force) to review existing regulations and make recommendations

regarding their repeal, replacement, or modification. The HHS Task Force evaluated the HEAL Program regulations and determined them to be outdated, unnecessary, or ineffective. Thus, the HHS Task force advised initiating this final rule to remove the obsolete regulations from the Code of Federal Regulations.

Regulatory Flexibility Act

This action will not have a significant economic impact on a substantial number of small entities. Therefore, the regulatory flexibility analysis provided for under the Regulatory Flexibility Act is not required.

Paperwork Reduction Act

This action does not affect any information collections.

Dated: May 20, 2019.

George Sigounas,

Administrator, Health Resources and Services Administration.

Approved: June 7, 2019.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

List of Subjects in 42 CFR 60

Educational study programs, Health professions, Loan programs—education, Loan programs—health, Medical and dental schools, Reporting and recordkeeping requirements, Student aid.

PART 60—[REMOVED]

■ For reasons set out in the preamble, and under the authority at 5 U.S.C. 301, HHS amends 42 CFR chapter I, subchapter D, by removing part 60.

[FR Doc. 2019-12577 Filed 6-14-19; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****44 CFR Part 64**

[Docket ID FEMA-2019-0003; Internal Agency Docket No. FEMA-8583]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program

(NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at <https://www.fema.gov/national-flood-insurance-program-community-status-book>.

DATES: The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Adrienne L. Sheldon, PE, CFM, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 400 C Street SW, Washington, DC 20472, (202) 212-3966.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be

suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. FEMA has determined that the community suspension(s) included in

this rule is a non-discretionary action and therefore the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) does not apply.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

- 1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

- 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Pennsylvania: Blain, Borough of, Perry County	420747	October 14, 1975, Emerg; June 24, 1977, Reg; June 20, 2019, Susp.	June 20, 2019 ..	June 20, 2019.

State and location	Community No.	Effective date authorization/ cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Duncannon, Borough of, Perry County	420749	October 20, 1972, Emerg; December 18, 1979, Reg; June 20, 2019, Susp.	.....do	Do.
Greenwood, Township of, Perry County	421950	August 12, 1975, Emerg; May 19, 1981, Reg; June 20, 2019, Susp.	.....do	Do.
Juniata, Township of, Perry County	421140	March 26, 1974, Emerg; May 1, 1978, Reg; June 20, 2019, Susp.	.....do	Do.
Liverpool, Borough of, Perry County	420750	March 20, 1974, Emerg; August 15, 1979, Reg; June 20, 2019, Susp.	.....do	Do.
Miller, Township of, Perry County	421954	March 21, 1977, Emerg; April 15, 1981, Reg; June 20, 2019, Susp.	.....do	Do.
Northeast Madison, Township of, Perry County.	421955	September 12, 1975, Emerg; September 4, 1985, Reg; June 20, 2019, Susp.	.....do	Do.
Penn, Township of, Perry County	420755	July 5, 1973, Emerg; February 18, 1981, Reg; June 20, 2019, Susp.	.....do	Do.
Rye, Township of, Perry County	421028	October 5, 1973, Emerg; August 15, 1979, Reg; June 20, 2019, Susp.	.....do	Do.
Southwest Madison, Township of, Perry County.	421957	July 2, 1975, Emerg; August 19, 1985, Reg; June 20, 2019, Susp.	.....do	Do.
Spring, Township of, Perry County	421958	September 10, 1975, Emerg; November 12, 1982, Reg; June 20, 2019, Susp.	.....do	Do.
Toboyne, Township of, Perry County	421959	September 8, 1981, Emerg; September 4, 1985, Reg; June 20, 2019, Susp.	.....do	Do.
Watts, Township of, Perry County	420756	May 24, 1973, Emerg; August 15, 1979, Reg; June 20, 2019, Susp.	.....do	Do.
Wheatfield, Township of, Perry County	421035	October 29, 1971, Emerg; December 18, 1979, Reg; June 20, 2019, Susp.	.....do	Do.
Region IV				
South Carolina:				
Greenwood County, Unincorporated Areas.	450094	April 21, 1978, Emerg; March 18, 1987, Reg; June 20, 2019, Susp.	June 20, 2019 ..	June 20, 2019.
Laurens County, Unincorporated Areas	450122	December 21, 1978, Emerg; December 15, 1990, Reg; June 20, 2019, Susp.	.....do	Do.
Newberry County, Unincorporated Areas.	450224	July 2, 1975, Emerg; December 15, 1990, Reg; June 20, 2019, Susp.	.....do	Do.
Region VII				
Kansas:				
Caney, City of, Montgomery County	200230	August 4, 1976, Emerg; July 3, 1986, Reg; June 20, 2019, Susp.	.....do	Do.
Cherryvale, City of, Montgomery County.	200231	March 17, 1975, Emerg; July 20, 1984, Reg; June 20, 2019, Susp.	.....do	Do.
Coffeyville, City of, Montgomery County	200232	December 17, 1971, Emerg; March 12, 1976, Reg; June 20, 2019, Susp.	.....do	Do.
Elk City, City of, Montgomery County ...	200408	July 23, 1987, Emerg; April 1, 1989, Reg; June 20, 2019, Susp.	.....do	Do.
Independence, City of, Montgomery County.	200233	February 26, 1975, Emerg; June 15, 1979, Reg; June 20, 2019, Susp.	.....do	Do.
Montgomery County, Unincorporated Areas.	200595	December 5, 1986, Emerg; June 1, 1988, Reg; June 20, 2019, Susp.	.....do	Do.
Missouri: Jefferson County, Unincorporated Areas.	290808	June 10, 1975, Emerg; May 16, 1983, Reg; June 20, 2019, Susp.	.....do	Do.
Region X				
Washington:				
Mason County, Unincorporated Areas ..	530115	August 18, 1975, Emerg; May 24, 1991, Reg; June 20, 2019, Susp.	.....do	Do.
Shelton, City of, Mason County	530116	August 27, 1975, Emerg; December 1, 1983, Reg; June 20, 2019, Susp.	.....do	Do.

*-do- = Ditto.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: June 4, 2019.

Katherine B. Fox,

*Assistant Administrator for Mitigation,
Federal Insurance and Mitigation
Administration—FEMA Resilience,
Department of Homeland Security, Federal
Emergency Management Agency.*

[FR Doc. 2019-12730 Filed 6-14-19; 8:45 am]

BILLING CODE 9110-12-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 10-90, 14-58, 07-135, CC
Docket No. 01-92; FCC 18-29]

Connect America Fund, ETC Annual Reports and Certifications, Establishing Just and Reasonable Rates for Local Exchange Carriers, Developing a Unified Intercarrier Compensation Regime

AGENCY: Federal Communications
Commission.

ACTION: Final rule; announcement of
effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, an information collection associated with the rules for the Connect America Fund contained in the Commission's *Rate-of-Return Order*, FCC 18-29. This document is consistent with the *Rate-of-Return Order*, which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of the new information collection requirements.

DATES: The amendment to § 54.313(f)(4) published at 83 FR 18951, May 1, 2018, is effective June 17, 2019.

FOR FURTHER INFORMATION CONTACT: Alexander Minard, Wireline Competition Bureau at (202) 418-7400 or TTY (202) 418-0484. For additional information concerning the Paperwork Reduction Act information collection requirements contact Nicole Ongele at (202) 418-2991 or via email: Nicole.Ongele@fcc.gov.

SUPPLEMENTARY INFORMATION: The Commission submitted revised information collection requirements for review and approval by OMB, as required by the Paperwork Reduction Act (PRA) of 1995, on May 1, 2019, which were approved by OMB on June 10, 2019. The information collection requirements are contained in the Commission's *Rate-of-Return Order*, FCC 18-29 published at 83 FR 18951,

May 1, 2018. The OMB Control Number is 3060-0986. The Commission publishes this document as an announcement of the effective date of the rules published May 1, 2018. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, Room 1-A620, 445 12th Street SW, Washington, DC 20554. Please include the OMB Control Number, 3060-0986, in your correspondence. The Commission will also accept your comments via email at PRA@fcc.gov. 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 and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received OMB approval on June 10, 2019, for the information collection requirements contained in 47 CFR 54.313(f)(4) published at 83 FR 18951, May 1, 2018. Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060-0986.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060-0986.

OMB Approval Date: June 10, 2019.

OMB Expiration Date: June 30, 2022.

Title: High-Cost Universal Service Support.

Form Number: FCC Form 481 and FCC Form 525.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, Not-for-profit institutions and State, Local or Tribal Government.

Number of Respondents and Responses: 1,877 respondents; 11,977 responses.

Estimated Time per Response: 0.1-15 hours.

Frequency of Response: On occasion, quarterly and annual reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151-154, 155, 201-206, 214, 218-220, 251, 252, 254, 256, 303(r), 332, 403, 405, 410, and 1302.

Total Annual Burden: 51,080 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission notes that the Universal Service Administrative Company (USAC) must preserve the confidentiality of all data obtained from respondents and contributors to the universal service support program mechanism; must not use the data except for purposes of administering the universal service program; must not use the data except for purposes of administering the universal support program; and must not disclose data in company-specific form unless directed to do so by the Commission. Parties may submit confidential information in relation pursuant to a protective order. Also, respondents may request materials or information submitted to the Commission or to the Administrator believed confidential to be withheld from public inspection under 47 CFR 0.459 of the FCC's rules.

Needs and Uses: On November 18, 2011, the Commission adopted an order reforming its high-cost universal service support mechanisms. *Connect America Fund; A National Broadband Plan for Our Future; Establish Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform—Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208, Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order*), and the Commission and Wireline Competition Bureau have since adopted a number of orders that implement the *USF/ICC Transformation Order*; see also *Connect America Fund et al.*, WC Docket No. 10-90 et al., Third Order on Reconsideration, 27 FCC Rcd 5622 (2012); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order,

27 FCC Rcd 605 (Wireline Comp. Bur. 2012); *Connect America Fund et al.*, WC Docket No. 10–90 et al., Fifth Order on Reconsideration, 27 FCC Rcd 14549 (2012); *Connect America Fund et al.*, WC Docket No. 10–90 et al., Order, 28 FCC Rcd 2051 (Wireline Comp. Bur. 2013); *Connect America Fund et al.*, WC Docket No. 10–90 et al., Order, 28 FCC Rcd 7227 (Wireline Comp. Bur. 2013); *Connect America Fund*, WC Docket No. 10–90, Report and Order, 28 FCC Rcd 7766 (Wireline Comp. Bur. 2013); *Connect America Fund*, WC Docket No. 10–90, Report and Order, 28 FCC Rcd 7211 (Wireline Comp. Bur. 2013); *Connect America Fund*, WC Docket No. 10–90, Report and Order, 28 FCC Rcd 10488 (Wireline Comp. Bur. 2013); *Connect America Fund et al.*, WC Docket No. 10–90 et al., Report and Order, Order and Order on Reconsideration and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087 (2016); *Connect America Fund et al.*, WC Docket Nos. 10–90, 16–271; WT Docket No. 10–208, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 10139 (2016); *Connect America Fund; ETC Annual Reports and Certifications*, WC Docket Nos. 10–90, 14–58, Report and Order, 32 FCC Rcd 5944 (2017). The Commission has received OMB approval for most of the information collections required by these orders. At a later date, the Commission plans to submit additional revisions for OMB review to address other reforms adopted in the orders (e.g., 47 CFR 54.313(a)(6)).

More recently, in the *2018 Rate-of-Return Order*, the Commission adopted a rule requiring rate-of-return ETCs receiving high-cost universal service support to identify on their annual FCC Form 481 their cost consultants and cost consulting firm, or other third-party, if any, used to prepare financial and operations data disclosures used to calculate high-cost support for their submissions to the National Exchange Carrier Association, USAC, or the Commission. *Connect America Fund et al.*, WC Docket No. 10–90 et al., Report and Order, Third Order on Reconsideration, and Notice of Proposed Rulemaking, FCC 18–29, at 19–20, para. 42 (Mar. 23, 2018) (*2018 Rate-of-Return Order*). See also 47 CFR 54.313(f)(4).

The Commission therefore revises this information collection, as well as Form 481 and its accompanying instructions, to reflect this new requirement. Any increased burdens for particular reporting requirements are associated with ETCs newly subject to those requirements as a condition of receiving high-cost support.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2019–12749 Filed 6–14–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 180720681–8999–02]

RTID 0648–XS001

Snapper-Grouper Fishery of the South Atlantic; 2019 Recreational Accountability Measure and Closure for South Atlantic Golden Tilefish

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for the golden tilefish recreational sector in the exclusive economic zone (EEZ) of the South Atlantic for the 2019 fishing year through this temporary rule. NMFS estimates recreational landings of golden tilefish in 2019 have reached the recreational annual catch limit (ACL). Therefore, NMFS closes the golden tilefish recreational sector in the South Atlantic EEZ on June 17, 2019. This closure is necessary to protect the golden tilefish resource.

DATES: This rule is effective 12:01 a.m., local time, June 17, 2019, until 12:01 a.m., local time, January 1, 2020.

FOR FURTHER INFORMATION CONTACT:

Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: mary.vara@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes golden tilefish and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On January 2, 2018, NMFS published a final temporary rule in the **Federal Register** (83 FR 65) to reduce the combined ACL for golden tilefish in the

South Atlantic to reduce overfishing of the stock. The final temporary rule was subsequently extended through January 3, 2019 (83 FR 28387; June 19, 2018). On January 4, 2019, NMFS implemented management measures for golden tilefish through a final rule for Amendment 28 to the Snapper-Grouper FMP (83 FR 233; December 4, 2018). This final rule set a recreational ACL of 2,316 fish (50 CFR 622.193(a)(2)(i)).

Landings data from the NMFS Southeast Fisheries Science Center indicate that the golden tilefish recreational ACL of 2,316 fish has been reached. Therefore, this temporary rule implements an AM to close the golden tilefish recreational sector of the snapper-grouper fishery for the remainder of the 2019 fishing year. As a result, the recreational sector for golden tilefish in the South Atlantic EEZ will be closed effective 12:01 a.m., local time June 17, 2019. The recreational sector for golden tilefish will open on January 1, 2020, the beginning of the 2020 fishing year and the recreational fishing season. During the closure, the bag and possession limits for golden tilefish in or from the South Atlantic EEZ are zero.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of South Atlantic golden tilefish and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(a)(2)(i) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The AA finds that the need to immediately implement this action to close the recreational sector for golden tilefish constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule pursuant to 5 U.S.C. 553(b)(B), because such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations at 50 CFR 622.193(a)(2)(i) have already been subject to notice and comment, and all that remains is to notify the public of the recreational closure for golden tilefish for the remainder of the 2019 fishing year. Prior notice and opportunity for comment are contrary to the public interest because of the need

to immediately implement this action to protect the golden tilefish resource. Time required for notice and public comment would allow for continued recreational harvest and further exceedance of the recreational ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: June 11, 2019.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019-12755 Filed 6-12-19; 4:15 pm]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register

Vol. 84, No. 116

Monday, June 17, 2019

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

FEDERAL RESERVE SYSTEM

12 CFR Part 261

[Docket No. R-1665]

RIN 7100-AF 51

Rules Regarding Availability of Information

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: The Board is inviting comment on a notice of proposed rulemaking (proposal) that would amend the Board's Rules Regarding Availability of Information (Board's Rules). The amendments clarify and update the Board's regulations implementing the Freedom of Information Act and the rules governing the disclosure of confidential supervisory information and other nonpublic information of the Board.

DATES: Comments must be received by August 16, 2019.

You may submit comments, identified by Docket No. R-1665 and RIN No. 7100 AF 51, by any of the following methods:

- *Agency Website:* <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

- *Email:* regs.comments@federalreserve.gov. Include the docket number in the subject line of the message.

- *Fax:* (202) 452-3819 or (202) 452-3102.

- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request.

Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Alye S. Foster, Assistant General Counsel, (202) 452-5289; Mary Bigloo, Counsel, (202) 475-6361, or Misty M. Kheternal, Counsel, (202) 452-2597; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of this proposed revision of the Board's Rules is to set forth more clearly the procedures for requesting access to documents that are records of the Board under the Freedom of Information Act (FOIA), as well as to update the rules governing the Board's disclosure of confidential supervisory and other nonpublic information. The revision also revises certain definitions to be consistent with language from the FOIA and to conform to recent case law and the Board's current FOIA practices. These provisions and changes are described in more detail below.

II. Description of the Proposal

A. Subpart A—General

Subpart A describes the authority, purpose, and scope of the regulation, and includes new or revised definitions for the terms used in the regulation.

§ 261.1 Authority, Purpose, and Scope

While § 261.1 largely tracks the current § 261.1, the Board has made some minor changes to improve the language and organization of the section.

§ 261.2 Definitions

Section 261.2 contains the definitions of key terms used throughout part 261. The Board's proposal to § 261.2 adds new terms, clarifies certain existing terms, and deletes other outdated terms. In addition, the Board proposes moving all terms related to the fees for processing a FOIA request, such as "commercial use requester," "direct costs," "duplication," "educational institution," "non-commercial scientific institution," "representative of the news

media," and "review" to the general fees section at § 261.16. The Board's proposed changes to these fees-related definitions are discussed in more depth in the Fees section below.

The Board proposes adding new definitions for three new terms ("affiliate," "nonpublic information," and "working day"). The Board also proposes modifying the definitions of "confidential supervisory information," "records of the Board," "search," and "supervised financial institution" to clarify the full scope of those terms or to conform the terms with current Board practices to facilitate the orderly processing of requests.

§ 261.2(a) Affiliate. The Board is incorporating the definition of "affiliate" from its Regulation Y, 12 CFR 225.2(a), as a new defined term in light of the Board's proposed revisions to subpart C providing for certain permitted disclosures of confidential supervisory information to the directors, officers, or employees of the affiliates of a supervised financial institution.

§ 261.2(b)(1) Confidential supervisory information. The Board proposes revising its definition of the term "confidential supervisory information" to clarify that confidential supervisory information constitutes any nonpublic information that is exempt from disclosure under Exemption 8 of the FOIA, 5 U.S.C. 552(b)(8), including any information created or obtained in furtherance of the Board's supervisory, investigatory, or enforcement activities, including activities conducted by a Federal Reserve Bank (Reserve Bank) under delegated authority, relating to any supervised financial institution. The revised definition further makes clear that confidential supervisory information includes any portions of internal documents of a supervised financial institution that contain, refer to, or would reveal confidential supervisory information.

§ 261.2(c) Nonpublic information. The Board proposes replacing the term "exempt information" with the term "nonpublic information" to emphasize that the term applies to information the Board has not made public, rather than simply to information subject to an exemption under the FOIA. This clarifies that information that could be subject to a FOIA exemption but that the Board has made public is not encompassed within the definition. At

the same time, information that has been disclosed on a discretionary basis and subject to confidentiality restrictions, such as disclosures under subpart C of the regulation, would not be considered as having been publicly disclosed, and therefore remains “nonpublic” information. The term “nonpublic information” has replaced “exempt information” throughout part 261.

§ 261.2(d) Records of the Board. The Board’s revised definition of this term updates the description of records in order to encompass all forms of records and eliminate outdated terminology. The proposed definition also incorporates the two-part test for determining whether a document qualifies as an agency document as set forth in *U.S. Department of Justice v. Tax Analysts*, 492 U.S. 136 (1989), by covering documents that are “created or obtained” by the Board and are under the Board’s “control.” The definition encompasses all information that is created or obtained by the Board or by any Reserve Bank in the performance of functions for or on behalf of the Board in order to conform to Board practice and eliminate any ambiguity regarding the scope of the Board’s records as they pertain to Reserve Banks. The Board has determined that the records referred to in existing § 261.2(i)(1)(ii) as being maintained for administrative reasons at a Reserve Bank are all encompassed within the category of records described in new paragraph (d)(1)(i). The revision also eliminates the definition of “Board’s official files” as unnecessary and confusing. The proposal further clarifies that Board records do not include records located at Reserve Banks other than those identified in § 261.2(d)(1) and records that may be in the Board’s possession but are under the control of another entity or agency.

§ 261.2(e) Search. The proposed changes simplify the definition of “search” by moving the part of the definition relating to computing fees to § 261.16, which discusses the fee schedule.

§ 261.2(f) Supervised financial institution. The Board is proposing to modify the definition of “supervised financial institution” to clarify that, for the purposes of this part, the term includes not only institutions supervised by the Board but also any entity or service subject to examination by the Board.

§ 261.2(g) Working day. The Board proposes adding a definition of “working day” to clarify time limits in accordance with the FOIA, 5 U.S.C. 552(a)(6)(A)(i).

The Board proposes deleting the definitions of “report of examination” and “report of inspection” as no longer necessary in light of the other revisions made in this section.

§ 261.3 Custodian of Records; Certification; Service; Alternative Authority

The Board proposes minor changes to this section. Section 261.3(a) deletes reference to records held at Reserve Banks, since these are covered by the definition of “records of the Board.” Section 261.3(c) will add language clarifying that the Secretary will not accept service of process on behalf of employees in connection with private legal disputes. Section 261.3(d) will add language clarifying that Board officers authorized under the rule to take actions may delegate that authority to others.

§ 261.4 Prohibition Against Disclosure

A new § 261.4 will be added to subpart A to emphasize the general prohibition on disclosure of the Board’s nonpublic information by Board or Reserve Bank staff. This provision is currently included in § 261.14. A companion prohibition relating to third parties in possession of nonpublic Board information is found at § 261.20(a).

B. Subpart B—Published Information and Records Available to Public; Procedures for Requests

§ 261.10 Published Information

Section 261.10 lists and explains the various types of information that are readily available to the public in the **Federal Register**, Board Printing & Fulfillment, or in the Board’s electronic reading room. The proposed regulations revise the regulations in three ways. First, the Board proposes shortening the list of items published in the **Federal Register** by replacing the items listed in original paragraphs (a)(6) through (10) with *Other notices as required by law* in order to add flexibility in the event of new required reports. Second, the Board proposes removing the paragraphs regarding the Board’s reports to Congress, the Federal Reserve Bulletin, and “Other published information” because of the ready availability and frequently changing nature of information made available on the Board’s website. As proposed, § 261.10(b) will address the current procedures for obtaining Board publications. Finally, the Board will consolidate duplicative material in current § 261.11 into § 261.10(c). In particular, § 261.10(c)(1) will explain what information is available in the

Board’s electronic reading room, § 261.10(c)(2) will explain which publicly available filings may be made available at Reserve Banks, and § 261.10(c)(3) will retain the existing provision authorizing the Board to delete personal privacy details prior to disclosure.

§ 261.11 Records Available to the Public Upon Request

This revised section (currently § 261.12) is modified to separate the mechanics of making a request (new § 261.11(a)) from the contents of the request (new § 261.11(b)). In addition, the Board proposes clarifying that its time period for responding to a request begins when it receives a request that includes all required information. Finally, the Board proposes removing the paragraph regarding oral requests given that the FOIA does not reference oral requests. As a practical matter, the Board may decide to honor oral requests on a case-by-case basis.

§ 261.12 Processing Requests

The substance of current § 261.13 relating to processing requests is substantially unchanged, although some clarifying language has been added. This section contains information on tracking, time limits, and responses to requests. Matters related to appeals, currently included in § 261.13, will be moved to a later section. Further changes to the section include incorporating language from the Department of Justice’s guidance (DOJ guidance)¹ into § 261.12(c) (“Expedited Processing”) and § 261.12(e) (“Time Limits”).

§ 261.13 Responses to Requests

While the majority of the language in the proposal reflects the current regulation, § 261.13 is reorganized and includes a few substantive edits. Section 261.13(a) will clarify that the search for responsive records, and therefore the start of the response time clock, will begin once the Board has received a perfected request. The language will also be revised to explain that the search for responsive records will be of records of the Board as of the date of the search. The foreseeable harm standard language currently in § 261.14(a) will be moved to § 261.13(c) and the discussion of segregability, now in § 261.14(b), will be moved to § 261.13(d) to reflect the sequential process that the Board takes when it receives a FOIA request. The Board proposes editing § 261.13(e)(3) to conform to the DOJ guidance, mainly to

¹ <https://www.justice.gov/oip/template-agency-foia-regulations>.

specify that the Board will provide the requester with an estimate of the amount of information withheld unless the amount of information withheld is indicated by deletions marked on the documents that are produced in part or if providing an estimate would harm an interest protected by an exemption. Section 261.13(f) will set out with additional specificity what determinations are considered “adverse determinations” that can be appealed. Finally, the Board proposes editing § 261.13(g) to indicate that the Board will typically send responsive records via email unless otherwise agreed upon by the Board and the requester.

§ 261.14 Appeals

The Board proposes adding a new section, § 261.14, for Appeals, which was previously included in the section about “Processing Requests.” Section 261.14(a)(1) will now specifically include information about how to appeal the denial of expedited treatment. The time period for filing an appeal is amended to conform to the statute and DOJ guidance. Finally, the Board proposes adding clarifying language to § 261.14(c) which describes the circumstances for when the Board may reconsider an adverse determination.

§ 261.15 Exemptions From Disclosure

Section 261.15 lists the exemptions available under the FOIA, currently located in § 261.14. The Board proposes simplifying the language related to exemptions (b)(3) and (b)(7) of the FOIA, 5 U.S.C. 552(b)(3) and (7), to incorporate rather than repeat the statutory language. The Board also proposes adding clarifying information to § 261.15(b) which discusses the circumstances under which the Board may make a discretionary release of nonpublic information. For example, the Board proposes adding paragraph (b)(2) that explains that the Board’s prior release of particular nonpublic information does not waive the Board’s ability to withhold similar nonpublic information in response to the same or a different request. The Board also proposes moving language currently in § 261.14(c)(1), which permits the Board, designated Board members, the General Counsel, and the Secretary to make discretionary disclosures of any material that is exempt under FOIA, into § 261.15(b)(3). Section 261.15(c) is unchanged from the current provision (§ 261.14(c)).

§ 261.16 Fee Schedules; Waiver of Fees

Proposed § 261.16 sets forth various provisions relating to the fees applicable to requests for records and also provides in Table 1 to § 261.16 the proposed fee schedule. The Board proposes several changes to the current fee provisions at § 261.17. First, the Board proposes adding language to § 261.16(a) to emphasize that the fee schedules will be applied in a manner consistent with the limitations set forth in 5 U.S.C. 552(a)(4)(A)(viii), which reference the Board’s compliance with the response time limit and also address unusual circumstances. Second, the Board proposes adding § 261.16(b) to address the definitions for search time, direct costs, duplication costs, and review time which have been modified to provide greater clarity. Section 261.16(c) addresses the payment procedures for requesters. Third, the Board proposes removing from § 261.16(c) any reference to a dollar threshold for when the Board will give advance notification of fees. In practice, a requester is only notified if staff have determined that the processing charges will exceed the amount the requester agreed to in his original perfected request; the language will now reflect that. Fourth, proposed § 261.16(d) will define the different categories of requesters, which are currently found in § 261.2 (“Definitions”). The Board believes that these definitions are better grouped in the fees section so that users only have to reference a single section in order to determine the fee category for which they qualify. The proposal updates the definitions for “representative of the news media,” “educational institution,” and “noncommercial scientific institution” to be consistent with the FOIA and DOJ guidance. The Board will also set out a fee schedule in chart form in place of the current regulatory language so that users can more easily determine which fees apply. Finally, the Board proposes adding § 261.16(g) to detail the conditions for a waiver or reduction of fees.

§ 261.17 Request for Confidential Treatment

Section 261.17 addresses the procedures to be used by any submitter of information to the Board who seeks confidential treatment of the information. The language of § 261.17(a) is revised to permit confidential treatment requests to be made for personal privacy information as well as proprietary commercial information. The Board also proposes replacing “a reasonable time after submission” with

“within 10 working days thereafter” in order to provide the submitters with a specific time frame for Board review of confidential treatment requests. The Board proposes language to § 261.17(b) that requires submitters to include detailed information to support confidential treatment requests. In addition, the Board proposes including language from the DOJ guidance stating that confidential treatment requests expire after 10 years. In the provision regarding confidential information contained in forms approved pursuant to the Paperwork Reduction Act in § 261.17(d), the Board proposes replacing “data” with “data items” to emphasize that even if the entire form is not deemed confidential, certain portions of the form may be confidential.

§ 261.18 Process for Addressing a Submitter’s Request for Confidential Treatment

Section 261.18 addresses how the Board processes confidential treatment requests and incorporates the provisions of current § 261.16. In § 261.18(a), the Board proposes removing language that specifically references that Board or Reserve Bank staff may also act on confidential treatment requests as unnecessary in light of revisions to the “*Alternative authority*” section in § 261.3. While the substance of current § 261.16(b), regarding notice to the submitter, will not be altered, the proposal incorporates DOJ guidance language into this section to help clarify the process. Proposed revisions to § 261.18(c), (d), (e), and (g) also incorporate DOJ guidance language without changing the substance of the Board’s current language.

C. Nonpublic Information Made Available to Supervised Financial Institutions, Governmental Agencies, and Others in Certain Circumstances

§ 261.20 General

The Board is proposing to add a new “*General*” section at the beginning of subpart C to set forth certain generally applicable provisions. Section 261.20(a) is largely based on current §§ 261.20(g), 261.21(g) and 261.22(e) and provides that all confidential supervisory information and other nonpublic information of the Board made available under subpart C remains the property of the Board and can neither be used for an unauthorized purpose nor further disclosed without the written permission of the General Counsel. Section 261.20(b) adds new language stating that any disclosure of confidential supervisory information or

nonpublic information under subpart C does not constitute a waiver by the Board of any applicable privileges. This new language would make explicit the Board's authority to make disclosures of confidential supervisory information and other nonpublic information on a confidential and limited basis without forfeiting any applicable privileges such as the bank examination privilege. Section 261.20(c) provides that subpart C does not limit or restrict the Board's authority to impose additional conditions or limitations on the use and disclosure of confidential supervisory information or other nonpublic information or to make discretionary disclosures of confidential supervisory information or other nonpublic information in addition to the specific disclosures provided for in subpart C.

§ 261.21 Confidential Supervisory Information Made Available to Supervised Financial Institutions

Current § 261.20 addresses confidential supervisory information that is made available to both supervised financial institutions and financial institution supervisory agencies in one section. Under the Board's proposal, these provisions will be covered by separate regulatory sections. Section 261.21 will address disclosures to and by supervised financial institutions and § 261.22 will address disclosures by the Board to governmental agencies, including financial institution supervisory agencies.

The Board is proposing a number of changes in § 261.21. Under current § 261.20(b), a supervised financial institution may disclose confidential supervisory information only to its parent holding company. The Board recognizes that supervised financial institutions may have legitimate business needs to disclose information to a variety of affiliates, including subsidiary banks, nonbank subsidiaries, and other entities within a holding company structure that provide centralized services to the company. Accordingly, under § 261.21(b), supervised financial institutions would be authorized to disclose confidential supervisory information to the directors, officers, or employees of their affiliates, as defined in the Board's Regulation Y, 12 CFR 225.2(a), to the extent such individuals have a need for the information in the performance of their official duties.

Additionally, under § 261.21(b)(2) the Board is proposing to permit supervised financial institutions to disclose confidential supervisory information directly to the Federal Deposit

Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), the Consumer Financial Protection Bureau (CFPB), and the state financial supervisory agency that supervises the institution, so long as the institution's central point of contact at the Reserve Bank or equivalent supervisory team leader (CPC) concurs that the receiving agency has a legitimate supervisory or regulatory interest in the information.

Sections 261.21(b)(3) and (b)(4) further modify the requirements governing supervised financial institutions' disclosures of confidential supervisory information to their auditors, outside legal counsel, and other service providers. Section 261.21(b)(3) eliminates the requirement that auditors and legal counsel view confidential supervisory information only on the premises of the supervised financial institution. Accordingly, the Board's amendment would allow supervised financial institutions to provide their auditors and outside legal counsel off-premises access to confidential supervisory information, subject to the written agreements set forth in § 261.21(b)(3)(i) through (iv), which include the requirement to render electronic files effectively inaccessible through access control measures or other means at the conclusion of the engagement.

Sections 261.21(b)(4) and (5) would modify the current process under which firms seek approval to disclose confidential supervisory information to their other service providers, including consultants and independent contractors. Instead of institutions submitting their disclosure requests to the General Counsel as required under the current regulation, the proposal would have institutions direct requests to their CPCs, who will, if required by internal procedures, consult with other Federal Reserve staff before rendering a decision on the request. This change will efficiently locate the Federal Reserve decision-making on such requests within the area most knowledgeable about a particular institution's supervisory information and need to share that information. The Board particularly invites public comment on this provision, given the change in existing procedure and the amendments proposed in § 261.21(b)(3).

§ 261.22 Nonpublic Information Made Available by the Board to Governmental Agencies and Entities Exercising Governmental Authority

Section 261.22(a) revises the Board's current rules governing disclosures by the Board and Reserve Banks to

financial institution supervisory agencies. It updates the agencies with which information may be shared to eliminate agencies that no longer exist and include new ones, such as the CFPB. It also permits sharing with state financial supervisory agencies on the same basis as the federal agencies—that is, “for legitimate supervisory or regulatory purposes and with or without a request.” The revisions also slightly alter the authorities of various Board staff to make disclosures in particular circumstances. Section 261.22(b) permits disclosure of information to particular governmental units in furtherance of specific statutory responsibilities, such as the Fair Housing Act, the Equal Credit Opportunity Act, and the Employee Retirement Income Security Act of 1974.

Section 261.22(c), which largely tracks current § 261.21(a) through (c), addresses non-subpoena requests for confidential supervisory information or other nonpublic information from other governmental agencies or entities exercising governmental authority, such as self-regulatory organizations. Section 261.22(c) additionally clarifies that properly accredited foreign law enforcement agencies and other foreign government agencies may submit requests for confidential supervisory information and other nonpublic information, with the exception that the provision of confidential supervisory information to foreign bank regulatory or supervisory authorities is governed by 12 CFR 211.27.

Section 261.22(d) addresses federal and state grand jury, criminal trial, and government administrative subpoenas, and largely tracks existing § 261.21(e). Section 261.22(e) permits the Board's General Counsel to impose conditions on disclosure and recognizes that the Board also enters into formal information-sharing agreements with other agencies and entities.

§ 261.23 Other Disclosure of Confidential Supervisory Information

Section 261.23 addresses requests that do not fall under § 261.21 or 261.22, including requests to access, use, or disclose confidential supervisory information in litigation. Section 261.23 largely adopts current § 261.22 with some clarifying revisions. For example, amended § 261.23(a)(2) will clarify that the Board will not authorize access to or disclosure of suspicious activity reports except as necessary to fulfill official duties under the Bank Secrecy Act and therefore will not authorize disclosure of such reports for use in private legal proceedings. This provision implements the Bank Secrecy Act regulations

promulgated by the Financial Crimes Enforcement Network (FinCEN) within the Department of the Treasury. *See* 31 U.S.C. 5318(g)(2)(ii); 31 CFR 1020.320(e)(2). Amended § 261.23(a) will also specify that the section covers not only requests for disclosure from the Board but also requests to access confidential supervisory information in the possession of third parties.

Section 261.23(b)(1)(i) clarifies which requests may be made in connection with litigation, recognizing that the Board receives various types of such requests. Accordingly, the revised section identifies the following categories of requests for the proposed use of confidential supervisory information in litigation: (1) Requests to obtain confidential supervisory information from the Board or Reserve Banks; (2) requests to disclose confidential supervisory information already in the possession of the requester; and (3) requests to access confidential supervisory information in the possession of a third party. Section 261.23(b)(2) sets forth the requirements for any request made under § 261.23(b)(1), which are largely based on the Board's requirements at current § 261.22(b)(1) with some proposed modifications to ensure requests contain the information required by the General Counsel. First, the Board is proposing that in addition to the requester identifying the "judicial or administrative action" to which the request relates, the requester also provide a copy of the complaint or other pleading setting forth the assertions in the case. Importantly, the proposed rule would have requesters directly speak to "the relevance of the confidential supervisory information to the issues or matters raised by the litigation," which allows the General Counsel to make an informed judgment as to the party's need for the information. The proposed rule further requires requesters to provide a "narrow and specific description of the confidential supervisory information," emphasizing the importance of precisely identifying the confidential supervisory information that is deemed relevant to the litigation.

The Board is also clarifying current § 261.22(b)(1)(iv) to require the requester to state "[t]he reason why the information sought, or *equivalent information adequate to the needs of the case*, cannot be obtained from any other source" (emphasis added). This recognizes that frequently, business information obtainable directly from litigants may provide material sufficient for a party's purposes without invading the bank examination privilege. Lastly, the Board's amended rule would clarify

that in cases in which a requester seeks to disclose confidential supervisory information to a litigant, the Board, prior to acting on the request, may require the litigant to whom disclosure would be made to substantiate its needs for the information.

While § 261.23(c), governing all other requests seeking to access or to disclose confidential supervisory information, is largely unchanged from the current § 261.22(b)(2), the Board has added some minor clarifications, including requiring the requester to provide "other information as requested by the General Counsel."

§ 261.24 Subpoenas, Orders Compelling Production, and Other Process

The Board is proposing minor clarifying revisions to current § 261.23(a) and (b) addressing the actions required of any individual who is served with a subpoena, order, or other judicial or administrative process requiring the person's production of confidential supervisory information or other nonpublic information of the Board in the form of documents or testimony. Specifically, the revisions make clear that the Board does not expect parties to defy court orders where the Board has had an opportunity to appear and oppose disclosure of its information. The Board is also proposing to add a new provision at § 261.24(c) to clarify that § 261.24 governs the procedure with respect to subpoenas and other legally-enforceable demands only, while any civil request for production of documents containing confidential supervisory information must proceed under § 261.23.

III. Administrative Law Matters

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, the Board is publishing an initial regulatory flexibility analysis of the proposal. The RFA requires each federal agency to prepare an initial regulatory flexibility analysis in connection with the promulgation of a proposed rule or certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. Under regulations issued by the Small Business Administration, a small entity includes a depository institution, bank holding company, or savings and loan holding company with average total assets of \$550 million or less and trust companies with average total assets of \$38.5 million or less. As of December 2018, there were approximately 3,191 small bank holding companies, 204

small savings and loan holding companies, 549 small state member banks, and one small trust company directly supervised by the Federal Reserve. Based on the Board's analysis, and for the reasons stated below, the Board believes that this proposed rule will not have a significant economic impact on a substantial number of small entities. The Board will, if necessary, conduct a final regulatory flexibility analysis after consideration of comments received during the public comment period.

1. *Statement of the need for, and objectives of, the proposed rule.* The proposed rule updates the procedures for requesting access to documents that are records of the Board under the FOIA and the rules governing the disclosure of confidential supervisory and other nonpublic information.

2. *Small entities affected by the proposed rule.* Like the Board's current part 261 regulation, the requirements set forth in the proposed rule with respect to requests for Board records under the FOIA and requests to access and disclose confidential supervisory information apply equally to all persons and to all entities regardless of their size. The proposal, which in part introduces organizational changes to clarify the Board's FOIA regulation, does not impose economic effects on FOIA requesters, including any FOIA requesters that would be small entities. Notably, under the FOIA, fees for processing FOIA requests must be limited to reasonable standard charges. Similarly, far from imposing any economic costs on supervised financial institutions, the Board's clarifications to the rules governing access to and disclosure of confidential supervisory information would ease certain outdated restrictions that hamper supervised financial institutions in their ability to further disclose confidential supervisory information within their organizations as well as with their auditors and legal counsel.

3. *Recordkeeping, reporting, and compliance requirements.* Beyond the restrictions on the unauthorized use and disclosure of confidential supervisory information and other nonpublic information of the Board, the proposal does not impose any reporting, recordkeeping, or other compliance requirements on persons or entities, including small entities.

4. *Other Federal rules.* The Board does not believe that the proposal duplicates, overlaps, or conflicts with any other federal rules.

5. *Significant alternatives to the proposed revisions.* The Board does not believe that there are other significant

alternatives to the proposed rule which accomplish its stated objectives.

Paperwork Reduction Act

There is no collection of information required by this proposal that would be subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires each federal banking agency to use plain language in all rules published after January 1, 2000. In light of this requirement, the Board believes this proposal is presented in a simple and straightforward manner and is consistent with this “plain language” directive.

List of Subjects in 12 CFR Part 261

Administrative practice and procedure, Confidential business information, Freedom of information.

Authority and Issuance

For the reasons set forth in the preamble, the Board of Governors of the Federal Reserve System proposes to amend 12 CFR part 261 as follows:

- 1. Revise part 261 to read as follows:

PART 261—RULES REGARDING AVAILABILITY OF INFORMATION

Subpart A—General

Sec.

- 261.1 Authority, purpose, and scope.
- 261.2 Definitions.
- 261.3 Custodian of records; certification; service; alternative authority.
- 261.4 Prohibition against disclosure.

Subpart B—Published Information and Records Available to Public; Procedures for Requests

- 261.10 Published information.
- 261.11 Records available to the public upon request.
- 261.12 Processing requests.
- 261.13 Responses to requests.
- 261.14 Appeals.
- 261.15 Exemptions from disclosure.
- 261.16 Fee schedules, waiver of fees.
- 261.17 Request for confidential treatment.
- 261.18 Process for addressing a submitter's request for confidential treatment.

Subpart C—Nonpublic Information Made Available to Supervised Financial Institutions, Governmental Agencies, and Others in Certain Circumstances

- 261.20 General.
- 261.21 Confidential supervisory information made available to supervised financial institutions.
- 261.22 Nonpublic information made available by the Board to governmental agencies and entities exercising governmental authority.
- 261.23 Other disclosure of confidential supervisory information.
- 261.24 Subpoenas, orders compelling production, and other process.

Authority: 5 U.S.C. 552; 12 U.S.C. 248(i) and (k), 321 *et seq.*, 611 *et seq.*, 1442, 1467a, 1817(a)(2)(A), 1817(a)(8), 1818(u) and (v), 1821(o), 1821(t), 1830, 1844, 1951 *et seq.*, 2601, 2801 *et seq.*, 2901 *et seq.*, 3101 *et seq.*, 3401 *et seq.*; 15 U.S.C. 77uuu(b), 78q(c)(3); 29 U.S.C. 1204; 31 U.S.C. 5301 *et seq.*; 42 U.S.C. 3601; 44 U.S.C. 3510.

Subpart A—General

§ 261.1 Authority, purpose, and scope.

(a) *Authority and purpose.* This part establishes mechanisms for carrying out the Board's statutory responsibilities relating to the disclosure, production, or withholding of information. In this regard, the Board has determined that the Board, or its delegees, may disclose nonpublic information of the Board, in accordance with the procedures set forth in this part, whenever it is necessary or appropriate to do so in the exercise of any of the Board's authorities, including but not limited to authority granted to the Board in the Federal Reserve Act, 12 U.S.C. 221 *et seq.*, the Bank Holding Company Act, 12 U.S.C. 1841 *et seq.*, the Home Owners' Loan Act, 12 U.S.C. 1461 *et seq.*, and the International Banking Act, 12 U.S.C. 3101 *et seq.* The Board has determined that all such disclosures made in accordance with the rules and procedures specified in this part are authorized by law, and are, as applicable, disclosures to proper persons pursuant to 12 U.S.C. 326. This part also sets forth the categories of information made available to the public, the procedures for obtaining information and records, the procedures for limited release of nonpublic information, and the procedures for protecting confidential business information.

(b) *Scope.* (1) This subpart A contains general provisions and definitions of terms used in this part.

(2) Subpart B of this part implements the Freedom of Information Act (FOIA) (5 U.S.C. 552).

(3) Subpart C of this part sets forth:

- (i) The kinds of nonpublic information made available to supervised financial institutions, governmental agencies, and others in certain circumstances;
- (ii) The procedures for disclosure; and
- (iii) The procedures with respect to subpoenas, orders compelling production, and other process.

§ 261.2 Definitions.

For purposes of this part:

(a) *Affiliate* has the meaning given it in 12 CFR 225.2(a).

(b)(1) *Confidential supervisory information* means nonpublic information that is exempt from

disclosure pursuant to 5 U.S.C. 552(b)(8) and includes information that is or was created or obtained in furtherance of the Board's supervisory, investigatory, or enforcement activities, including activities conducted by a Federal Reserve Bank (Reserve Bank) under delegated authority, relating to any supervised financial institution, including, without limitation, reports of examination, inspection, and visitation; confidential operating and condition reports, supervisory assessments, investigative requests for documents or other information, supervisory correspondence or other supervisory communications; any portions of internal documents of a supervised financial institution that contain, refer to, or would reveal confidential supervisory information; and any information derived from, related to, or contained in such documents.

(2) *Confidential supervisory information* does not include:

(i) Documents prepared by or for a supervised financial institution for its own business purposes and that are in its possession except to the extent included in paragraph (b)(1) of this section; or

(ii) Final orders, amendments, or modifications of final orders, or other actions or documents that are specifically required to be published or made available to the public pursuant to 12 U.S.C. 1818(u), the Community Reinvestment Act, or other applicable law.

(c) *Nonpublic information* means information that has not been publicly disclosed by the Board and that is:

(1) Confidential supervisory information, or

(2) Exempt from disclosure under § 261.15(a).

(d)(1) *Records of the Board* or *Board records* means all recorded information, regardless of form or characteristics, that is created or obtained by the Board and is under the Board's control. A record is created or obtained by the Board if it is created or obtained by:

(i) Any Board member or any officer, employee, or contractor of the Board in the conduct of the Board's official duties, or

(ii) Any officer, director, employee, or contractor of any Reserve Bank in the performance of functions for or on behalf of the Board.

(2) *Records of the Board* do not include:

(i) Personal files or notes of Board members, employees, or contractors; extra copies of documents and library and museum materials kept solely for reference or exhibition purposes; or unaltered publications otherwise

available to the public in Board publications, libraries, or established distribution systems;

(ii) Records located at Reserve Banks other than those records identified in paragraph (d)(1) of this section; or

(iii) Records that belong to or are otherwise under the control of another entity or agency despite the Board's possession.

(e)(1) *Search* means a reasonable search of such records of the Board as seem likely in the particular circumstances to contain information of the kind requested.

(2) As part of the Board's search for responsive records, the Board is not obligated to conduct any research, create any document, or modify an electronic program or automated information system.

(f) *Supervised financial institution* includes any institution that is supervised by the Board, including a bank; a bank holding company, intermediate holding company, or savings and loan holding company (including their non-depository subsidiaries); a U.S. branch or agency of a foreign bank; any company designated for Board supervision by the Financial Stability Oversight Council; or any other entity or service subject to examination by the Board.

(g) *Working day* means any day except Saturday, Sunday, or a legal Federal holiday.

§ 261.3 Custodian of records; certification; service; alternative authority.

(a) *Custodian of records.* The Secretary of the Board (Secretary) is the official custodian of all records of the Board.

(b) *Certification of record.* The Secretary may certify the authenticity of any Board record, or any copy of such record, for any purpose, and for or before any duly constituted federal or state court, tribunal, or agency.

(c) *Service of subpoenas or other process.* Subpoenas or other judicial or administrative process demanding access to any Board records or making any claim against the Board or against Board members or staff in their official capacity shall be addressed to and served upon the Secretary of the Board at the Board's office at 20th Street and Constitution Avenue NW, Washington, DC 20551. The Board does not accept service of process on behalf of any employee in respect of purely private legal disputes.

(d) *Alternative authority.* Any action or determination required or permitted by this part to be done by the Board, the Secretary, the General Counsel, the Director of any Division, or any Reserve

Bank, may be done by any employee who has been duly authorized or designated for this purpose by the Board, the Secretary, the General Counsel, the appropriate Director, or the appropriate Reserve Bank, respectively.

§ 261.4 Prohibition against disclosure.

Except as provided in this part or as otherwise authorized, no officer, employee, or agent of the Board or any Reserve Bank shall disclose or permit the disclosure of any nonpublic information of the Board to any person other than Board or Reserve Bank officers, employees, or agents properly entitled to such information for the performance of official duties.

Subpart B—Published Information and Records Available to Public; Procedures for Requests

§ 261.10 Published information.

(a) *Federal Register.* The Board publishes in the **Federal Register** for the guidance of the public:

(1) Descriptions of the Board's central and field organization;

(2) Statements of the general course and method by which the Board's functions are channeled and determined, including the nature and requirements of procedures;

(3) Rules of procedure, descriptions of forms available and the place where they may be obtained, and instructions on the scope and contents of all papers, reports, and examinations;

(4) Substantive rules, interpretations of general applicability, and statements of general policy;

(5) Every amendment, revision, or repeal of the foregoing in paragraphs (a)(1) through (4) of this section; and

(6) Other notices as required by law.

(b) *Publications.* The Board maintains a list of publications on its website (at www.federalreserve.gov/publications). Most publications issued by the Board, including available back issues, may be downloaded from the website; some may be obtained through an order form located on the website (at www.federalreserve.gov/files/orderform.pdf) or by contacting Board Printing & Fulfillment, Federal Reserve Board, Washington, DC 20551. Subscription or other charges may apply for some publications.

(c) *Publicly available information—(1) Electronic reading room.* The Board makes the following records available in its electronic reading room, <http://www.federalreserve.gov/foia/readingrooms.htm#rr1>.

(i) Final opinions, including concurring and dissenting opinions, as well as final orders and written

agreements, made in the adjudication of cases;

(ii) Statements of policy and interpretations adopted by the Board that are not published in the **Federal Register**;

(iii) Administrative staff manuals and instructions to staff that affect the public;

(iv) Copies of all records, regardless of form or format—

(A) That have been released to any person under § 261.11; and

(B)(1) That because of the nature of their subject matter, the Board has determined have become or are likely to become the subject of subsequent requests for substantially the same records; or

(2) That have been requested 3 or more times.

(v) A general index of the records referred to in paragraph (c)(1)(iv) of this section; and

(vi) The public section of Community Reinvestment Act examination reports.

(2) *Inspection and copying at Reserve Banks.* The Board may determine that certain classes of publicly available filings shall be made available for inspection and copying only at the Reserve Bank where those records are filed.

(3) *Privacy protection.* The Board may delete identifying details from any public record to prevent a clearly unwarranted invasion of personal privacy.

§ 261.11 Records available to the public upon request.

(a) *Procedures for requesting records.* (1) Requesters are encouraged to submit requests electronically by filling out the required information at <https://www.federalreserve.gov/secure/forms/efoiaform.aspx>. Alternatively, requests may be submitted in writing to the Office of the Secretary, Board of Governors of the Federal Reserve System, Attn: FOIA Requests, 20th Street and Constitution Avenue NW, Washington, DC 20551; or sent by facsimile to the Office of the Secretary, (202) 872-7565. Clearly mark the request FREEDOM OF INFORMATION ACT REQUEST.

(2) A request may not be combined with any other request or with any matter presented to the Board such as a protest on a pending application or a comment on a public rulemaking. It may, however, be combined with a request for records under the Privacy Act pursuant to 12 CFR 261a.5(a) or a request for discretionary release of confidential supervisory information pursuant to § 261.23.

(b) *Contents of request.* A request must include:

(1) The requester's name, address, daytime telephone number, and an email address if available.

(2) A description of the records that enables the Board's staff to identify and produce the records with reasonable effort and without unduly burdening or significantly interfering with any of the Board's operations. Whenever possible, the request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record.

(3) A statement agreeing to pay the applicable fees. If the information requested is not intended for a commercial use (as defined in § 261.16(d)(1)) and the requester seeks a reduction or waiver of the fees because he or she is either a representative of the news media, an educational institution, or a noncommercial scientific institution, the requester should include the information called for in § 261.16(g)(2).

(c) *Perfected and defective requests.*

(1) The Board will consider the request to be perfected on the date the Office of the Secretary receives a request that contains all of the information required by paragraphs (b)(1) through (3) of this section.

(2) The Board need not accept or process a request that does not reasonably describe the records requested or that does not otherwise comply with the requirements of this section.

(3) The Board may return a defective request, specifying the deficiency. The requester may submit a corrected request, which will be treated as a new request.

§ 261.12 Processing requests.

(a) *Receipt of requests.* Upon receipt of any request that satisfies the requirements set forth in § 261.11, the Office of the Secretary shall assign the request to the appropriate processing schedule, pursuant to paragraph (b) of this section. The date of receipt for any request, including one that is addressed incorrectly or that is referred to the Board by another agency or by a Reserve Bank, is the date the Office of the Secretary actually receives the request.

(b) *Multitrack processing.* (1) The Board provides different levels of processing for categories of requests under this section.

(i) Requests for records that are readily identifiable by the Office of the Secretary and that have already been cleared for public release or can easily be cleared for public release may qualify for simple processing.

(ii) All other requests shall be handled under normal processing procedures, unless expedited processing has been granted pursuant to paragraph (c) of this section.

(2) The Office of the Secretary will make the determination whether a request qualifies for simple processing. A requester may contact the Office of the Secretary to learn whether a particular request has been assigned to simple processing. If the request has not qualified for simple processing, the requester may limit the scope of the request in order to qualify for simple processing by contacting the Office of the Secretary in writing, by letter or email, or by telephone.

(c) *Expedited processing.* (1) A request for expedited processing may be made at any time. A request for expedited processing must be clearly labeled "Expedited Processing Requested." The Board will process requests and appeals on an expedited basis whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited processing could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) An urgency to inform the public about an actual or alleged federal government activity, if made by a person who is primarily engaged in disseminating information.

(2) A requester who seeks expedited processing must submit a statement, certified to be true and correct, explaining in detail the basis for making the request for expedited processing. For example, under paragraph (c)(1)(ii) of this section, a requester who is not a full-time member of the news media must establish that the requester is a person whose primary professional activity or occupation is information dissemination, though it need not be the requester's sole occupation. Such a requester also must establish a particular urgency to inform the public about the government activity involved in the request—one that extends beyond the public's right to know about federal government activity generally. The existence of numerous articles published on a given subject can be helpful in establishing the requirement that there be an "urgency to inform" the public on the topic. As a matter of administrative discretion, the Board may waive the formal certification requirement.

(3) Within 10 calendar days of receipt of a request for expedited processing, the Board will notify the requester of its decision on the request. A denial of expedited processing may be appealed to the Board in accordance with

§ 261.14. The Board will respond to the appeal within 10 working days of receipt of the appeal.

(d) *Priority of responses.* The Office of the Secretary will normally process requests in the order they are received in the separate processing tracks, except when expedited processing is granted in which case the request will be processed as soon as practicable.

(e) *Time limits.* The time for response to requests shall be 20 working days from when a request is perfected. Exceptions to the 20-day time limit are only as follows:

(1) In the case of expedited treatment under paragraph (c) of this section, the Board shall give the expedited request priority over non-expedited requests and shall process the expedited request as soon as practicable.

(2) Where the running of such time is suspended for a requester to address fee requirements pursuant to § 261.16(c)(1) or (2).

(3) In unusual circumstances, as defined in 5 U.S.C. 552(a)(6)(B), the Board may—

(i) Extend the 20-day time limit for a period of time not to exceed 10 working days, where the Board has provided written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be dispatched; and

(ii) Extend the 20-day time limit for a period of more than 10 working days where the Board has provided the requester with an opportunity to modify the scope of the FOIA request so that it can be processed within that time frame or with an opportunity to arrange an alternative time frame for processing the original request or a modified request, and has notified the requester that the Board's FOIA Public Liaison is available to assist the requester for this purpose and in the resolution of any disputes between the requester and the Board and of the requester's right to seek dispute resolution services from the Office of Government Information Services.

§ 261.13 Responses to requests.

(a) When the Board receives a perfected request, it will conduct a reasonable search of Board records on the date the Board's search begins and will review any responsive information it locates.

(b) If a request covers documents that were created by, obtained from, or classified by another agency, the Board may refer the request for such documents to that agency for a response and inform the requester promptly of the referral.

(c) In responding to a request, the Board will withhold information under this section only if—

(1) The Board reasonably foresees that disclosure would harm an interest protected by an exemption described in § 261.15(a); or

(2) Disclosure is prohibited by law.

(d) The Board will take reasonable steps necessary to segregate and release nonexempt information.

(e) The Board will notify the requester of:

(1) The Board's determination of the request;

(2) The reasons for the determination;

(3) An estimate of the amount of information withheld, if any. An estimate is not required if the amount of information is otherwise indicated by deletions marked on records that are disclosed in part or if providing an estimate would harm an interest protected by an applicable exemption;

(4) The right of the requester to seek assistance from the Board's FOIA Public Liaison; and

(5) When an adverse determination is made, the Board will advise the requester in writing of that determination and will further advise the requester of:

(i) The right of the requester to appeal any adverse determination within 90 calendar days after the date of the determination as specified in § 261.14;

(ii) The right of the requester to seek dispute resolution services from the Board's FOIA Public Liaison or the Office of Government Information Services; and

(iii) The name and title or position of the person responsible for the adverse determination.

(f) Adverse determinations, or denials of requests, include decisions that the requested record is exempt, in whole or in part; the request does not reasonably describe the records sought; the information requested is not a record subject to the FOIA; the requested record does not exist, cannot be located, or has been destroyed; or the requested record is not readily reproducible in the form or format sought by the requester. Adverse determinations also include denials involving fees or fee waiver matters or denials of requests for expedited treatment.

(g) The Board will normally send responsive, nonexempt documents to the requester by email but may use other means as arranged between the Board and the requester or as determined by the Board. The Board will attempt to provide records in the format requested by the requester.

§ 261.14 Appeals.

(a) If the Board makes an adverse determination as defined in § 261.13(f), the requester may file a written appeal with the Board, as follows:

(1) The appeal should prominently display the phrase FREEDOM OF INFORMATION ACT APPEAL on the first page, and should be sent directly to *FOIA-Appeals@frb.gov* or, if sent by mail, addressed to the Office of the Secretary, Board of Governors of the Federal Reserve System, Attn: FOIA Appeals, 20th Street & Constitution Avenue NW, Washington, DC 20551; or sent by facsimile to the Office of the Secretary, (202) 872-7565. If the requester is appealing the denial of expedited treatment, the appeal should clearly be labeled "Appeal for Expedited Processing."

(2) An initial request for records may not be combined in the same letter with an appeal.

(3) To be considered timely, an appeal must be postmarked, or in the case of electronic submissions, transmitted, within 90 calendar days after the date of the adverse determination.

(b) Except as provided in § 261.12(c)(3), the Board shall make a determination regarding any appeal within 20 working days of actual receipt of the appeal by the Office of the Secretary. If an adverse determination is upheld on appeal, in whole or in part, the determination letter shall notify the appealing party of the right to seek judicial review and of the availability of dispute resolution services from the Office of Government Information Services as a nonexclusive alternative to litigation.

(c) The Board may reconsider an adverse determination, including one on appeal, if intervening circumstances or additional facts not known at the time of the adverse determination come to the attention of the Board.

§ 261.15 Exemptions from disclosure.

(a) *Types of records exempt from disclosure.* Pursuant to 5 U.S.C. 552(b), the following records of the Board are exempt from disclosure under this part:

(1) Any information that is specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and is in fact properly classified pursuant to the Executive Order.

(2) Any information related solely to the internal personnel rules and practices of the Board.

(3) Any information specifically exempted from disclosure by statute to the extent required by 5 U.S.C. 552(b)(3).

(4) Any matter that is a trade secret or that constitutes commercial or financial information obtained from a person and that is privileged or confidential.

(5) Inter- or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the Board, provided that the deliberative process privilege shall not apply to records that were created 25 years or more before the date on which the records were requested.

(6) Any information contained in personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(7) Any records or information compiled for law enforcement purposes, to the extent permitted under 5 U.S.C. 552(b)(7).

(8) Any matter that is contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, including a state financial institution supervisory agency.

(b) *Release of nonpublic information.*

(1) The Board may make any nonpublic information furnished in connection with an application for Board approval of a transaction available to the public in response to a request in accordance with § 261.11, and may, without prior notice and to the extent it deems necessary, comment on such information in any opinion or statement issued to the public in connection with a Board action to which such information pertains.

(2) The fact that the Board has determined to release particular nonpublic information does not waive the Board's ability to withhold similar nonpublic information in response to the same or a different request.

(3) Except where disclosure is expressly prohibited by statute, regulation, or order, the Board may release records that are exempt from mandatory disclosure whenever the Board or designated Board members, the Secretary, or the General Counsel determines that such disclosure would be in the public interest.

(c) *Delayed release.* Except as required by law, publication in the **Federal Register** or availability to the public of certain information may be delayed if immediate disclosure would likely:

(1) Interfere with accomplishing the objectives of the Board in the discharge of its statutory functions;

(2) Interfere with the orderly conduct of the foreign affairs of the United States;

(3) Permit speculators or others to gain unfair profits or other unfair advantages by speculative trading in securities or otherwise;

(4) Result in unnecessary or unwarranted disturbances in the securities markets;

(5) Interfere with the orderly execution of the objectives or policies of other government agencies; or

(6) Impair the ability to negotiate any contract or otherwise harm the commercial or financial interest of the United States, the Board, any Reserve Bank, or any department or agency of the United States.

§ 261.16 Fee schedules; waiver of fees.

(a) *Fee schedules.* Consistent with the limitations set forth in 5 U.S.C. 552(a)(4)(A)(viii), the fees applicable to a request for records pursuant to § 261.11 are set forth in Table 1 to § 261.16 Fees of this section. These fees cover only the full allowable direct costs of search, duplication, and review. No fees will be charged where the average cost of collecting the fee (calculated at \$5.00) exceeds the amount of the fee.

(b) *Computing Fees.* For purposes of computing fees:

(1) Search time includes all time spent looking for material that is responsive to a request, including line-by-line identification of material within documents. Such activity is distinct from “review” of material to determine whether the material is exempt from disclosure.

(2) Direct costs mean those expenditures that the Board actually incurs in searching for, reviewing, and duplicating records in response to a request made under § 261.11, as shown in Table 1 to § 261.16 Fees of this section.

(3) Duplication refers to the process of making a copy, in any format, of a document.

(4) Review refers to the process of examining documents that have been located as being potentially responsive to a request for records to determine whether any portion of a document is exempt from disclosure. It includes doing all that is necessary to prepare the documents for release, including the redaction of exempt information. It does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(c) *Payment procedures.* The Board may assume that a person requesting records pursuant to § 261.11 will pay the applicable fees, unless the request includes a limitation on fees to be paid

or seeks a waiver or reduction of fees pursuant to paragraph (g) of this section.

(1) *Advance notification of fees.* If the estimated charges are likely to exceed the amount authorized by the requester, the Office of the Secretary shall notify the requester of the estimated amount.

Upon receipt of such notice, the requester may confer with the Office of the Secretary to reformulate the request to lower the costs or may authorize a higher amount. The time period for responding to requests under § 261.12(e) and the processing of the request will be suspended until the requester agrees in writing to pay the applicable fees.

(2) *Advance payment.* The Board may require advance payment of any fee estimated to exceed \$250. The Board may also require full payment in advance where a requester has previously failed to pay a fee in a timely fashion. The time period for responding to a request under § 261.12(e) and the processing of the request will be suspended until the Office of the Secretary receives the required payment.

(3) *Late charges.* The Board may assess interest charges when fee payment is not made within 30 days of the date on which the billing was sent. Interest is at the rate prescribed in 31 U.S.C. 3717 and accrues from the date of the billing.

(d) *Categories of uses.* The fees assessed depend upon the intended use for the records requested. In determining which category is appropriate, the Board will look to the intended use set forth in the request for records. Where a requester’s description of the use is insufficient to make a determination, the Board may seek additional clarification before categorizing the request.

(1) *A commercial use requester* is one who requests records for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made, which can include furthering those interests through litigation.

(2) *Representative of the news media* is any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience, including organizations that disseminate solely on the internet. The term “news” means information that is about current events or that would be of current interest to the public. A non-affiliated journalist who demonstrates a solid basis for expecting publication through a news media entity, such as a publishing contract or

past publication record, will be considered as a representative of the news media.

(3) *Educational institution* is any school that operates a program of scholarly research. A requester in this fee category must show that the request is made in connection with his or her role at the educational institution. The Board may seek verification from the requester that the request is in furtherance of scholarly research.

(4) *Noncommercial scientific institution* is an institution that is not operated on a “commercial” basis, as defined in paragraph (d)(1) of this section, and that is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry. A requester in this category must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are sought to further scientific research and are not for a commercial use. Please refer to Table 1 to § 261.16 Fees to determine what fees apply for different categories of users.

(e) *Nonproductive search.* Fees for search and review may be charged even if no responsive documents are located or if the request is denied.

(f) *Aggregated requests.* A requester may not file multiple requests at the same time, solely in order to avoid payment of fees. If the Board reasonably believes that a requester is separating a single request into a series of requests for the purpose of evading the assessment of fees, the Board may aggregate any such requests and charge accordingly. It is considered reasonable for the Board to presume that multiple requests of this type made within a 30-day period have been made to avoid fees.

(g) *Waiver or reduction of fees.* A request for a waiver or reduction of the fees, and the justification for the waiver, shall be included with the request for records to which it pertains. If a waiver is requested and the requester has not indicated in writing an agreement to pay the applicable fees if the waiver request is denied, the time for response to the request for documents, as set forth in § 261.12(e), shall not begin until either a waiver has been granted or, if the waiver is denied, until the requester has agreed to pay the applicable fees.

(1) The Board will grant a waiver or reduction of fees where it is determined both that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operation or activities of the federal government, and that the disclosure of information is not

primarily in the commercial interest of the requester. In making this determination, the Board will consider the following factors:

(i) Whether the subject of the records would shed light on identifiable operations or activities of the government with a connection that is direct and clear, not remote or attenuated; and

(ii) Whether disclosure of the information is likely to contribute significantly to public understanding of those operations or activities. This factor is satisfied when the following criteria are met:

(A) Disclosure of the requested records must be meaningfully informative about government operations or activities. The disclosure of information that already is in the public domain, in either the same or a substantially identical form, would not be meaningfully informative if nothing new would be added to the public's understanding.

(B) The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area as well as the requester's ability and intention to effectively convey information to the public must be considered. The Board will presume that a representative of the news media will satisfy this consideration.

(iii) The disclosure must not be primarily in the commercial interest of the requester. A commercial interest includes any commercial, trade, profit, or litigation interest.

(2) A request for a waiver or reduction of fees must include:

(i) A clear statement of the requester's interest in the documents;

(ii) The use proposed for the documents and whether the requester will derive income or other benefit for such use;

(iii) A statement of how the public will benefit from such use and from the Board's release of the documents;

(iv) A description of the method by which the information will be disseminated to the public; and

(v) If specialized use of the information is contemplated, a statement of the requester's qualifications that are relevant to that use.

(3) The requester has the burden to present evidence or information in support of a request for a waiver or reduction of fees.

(4) The Board will notify the requester of its determination on the request for a waiver or reduction of fees. The requester may appeal a denial in accordance with § 261.14(a).

(5) Where only some of the records to be released satisfy the requirements for a waiver of fees, a waiver must be granted for those records.

(6) A request for a waiver or reduction of fees should be made when the request for records is first submitted to the Board and should address the criteria referenced in this section. A requester may submit a fee waiver request at a later time so long as the underlying record request is pending or on administrative appeal. When a requester who has committed to pay fees subsequently asks for a waiver of those fees and that waiver is denied, the requester must pay any costs incurred up to the date the fee waiver request was received.

(h) *Restrictions on charging fees.* (1) If the Board fails to comply with the FOIA's time limits in which to respond to a request, the Board may not charge search fees, or, in the instances of requests from requesters described in paragraph (d)(2) through (4) of this section, may not charge duplication fees, except as permitted under paragraphs (h)(2) through (4) of this section.

(2) If the Board determines that unusual circumstances exist, as described in 5 U.S.C. 552(a)(6)(B), and has provided timely written notice to the requester and subsequently responds within the additional 10

working days as provided in § 261.12(e)(3), the Board may charge search fees, or, in the case of requests from requesters described in paragraphs (d)(2) through (4) of this section, may charge duplication fees.

(3) If the Board determines that unusual circumstances exist, as described in 5 U.S.C. 552(a)(6)(B), and more than 5,000 pages are necessary to respond to the request, then the Board may charge search fees, or, in the case of requesters described in paragraphs (d)(2) through (4) of this section, may charge duplication fees, if the Board has:

(i) Provided timely written notice to the requester in accordance with the FOIA; and

(ii) Discussed with the requester via written mail, email, or telephone (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with 5 U.S.C. 552(a)(6)(B)(ii).

(4) If a court has determined that exceptional circumstances exist, as defined by the FOIA, a failure to comply with the time limits shall be excused for the length of time provided by the court order.

(i) *Employee requests.* In connection with any request by an employee, former employee, or applicant for employment, for records for use in prosecuting a grievance or complaint of discrimination against the Board, fees shall be waived where the total charges (including charges for information provided under the Privacy Act of 1974 (5 U.S.C. 552a)) are \$50 or less; but the Board may waive fees in excess of that amount.

(j) *Special services.* The Board may agree to provide, and set fees to recover the costs of, special services not covered by the FOIA, such as certifying records or information and sending records by special methods such as express mail or overnight delivery.

TABLE 1 TO § 261.16 FEES

Type of requester	Search costs per hour	Review costs per hour	Duplication costs
Commercial	Clerical/technical staff—\$20	Clerical/technical staff—\$20	Photocopy, per standard page—.10.
	Professional/Supervisory staff—\$40.	Professional/Supervisory staff—\$40.	Other types of duplication—Actual Cost.
	Manager/Senior professional staff—\$65.	Manager/Senior professional staff—\$65.	
	Computer search, including computer search time, output, operator's salary—Direct Costs.		

TABLE 1 TO § 261.16 FEES—Continued

Type of requester	Search costs per hour	Review costs per hour	Duplication costs
Educational; or Non-commercial scientific; or News Media.	Costs waived	Costs waived	First 100 pages <i>free</i> , then: Photocopy per standard page—.10. Other types of duplication—Actual Cost.
All other requesters	First 2 hours free, then: Clerical/Technical staff—\$20. Professional/Supervisory staff—\$40. Manager/Senior professional staf—\$65.	Costs waived	First 100 pages <i>free</i> , then: Photocopy, per standard page—.10. Other types of duplication—Actual Cost.

§ 261.17 Request for confidential treatment.

(a) *Submission of request.* Any submitter of information to the Board who desires that such information be withheld pursuant to § 261.15(a)(4) or (6) shall file a request for confidential treatment with the Board (or in the case of documents filed with a Reserve Bank, with that Reserve Bank) at the time the information is submitted or within 10 working days thereafter.

(b) *Form of request.* Each request for confidential treatment shall state in reasonable detail the facts supporting the request, provide the legal justification, identify the specific information for which confidential treatment is requested, and include an affirmative statement that such information is not available publicly. Conclusory statements that release of the information would cause competitive harm generally will not be considered sufficient to justify confidential treatment for purposes of § 261.15(a)(4). A submitter's request for confidentiality in reliance upon § 261.15(a)(4) generally expires 10 years after the date of submission unless a renewal request is submitted in writing to the Board before the confidentiality designation expires. The renewal request will likewise expire 10 years after the date of submission, unless the Board receives another timely renewal request.

(c) *Designation and separation of confidential material.* All information considered confidential by a submitter shall be clearly designated **CONFIDENTIAL** in the submission and separated from information for which confidential treatment is not requested. Failure to segregate confidential information from other material may result in release of the unsegregated material to the public without notice to the submitter.

(d) *Exceptions.* This section does not apply to:

(1) Data items collected on forms that are approved pursuant to the Paperwork

Reduction Act (44 U.S.C. 3501 *et seq.*) and deemed confidential by the Board. Any such data items deemed confidential by the Board shall so indicate on the face of the form or in its instructions. The data may, however, be disclosed in aggregate form in such a manner that individual company data is not disclosed or derivable.

(2) Any comments submitted by a member of the public on applications and regulatory proposals being considered by the Board, unless the Board determines that confidential treatment is warranted.

(3) A determination by the Board to comment upon information submitted to the Board in any opinion or statement issued to the public as described in § 261.15(b)(1).

(e) *Special procedures.* The Board may establish special procedures for particular documents, filings, or types of information by express provisions in this part or by instructions on particular forms that are approved by the Board. These special procedures shall take precedence over this section.

§ 261.18 Process for addressing a submitter's request for confidential treatment.

(a) *Resolving requests for confidential treatment.* In general, a request by a submitter for confidential treatment of any information shall be considered in connection with a request for access to that information. At its discretion, the Board may act on a request for confidentiality prior to any request for access to the documents.

(b) *Notice to the submitter.* (1) When the Board receives a FOIA request for information for which a submitter has requested confidential treatment, the Board shall promptly provide written notice of the request to the submitter if the Board determines that it may be required to disclose the records, provided:

(i) The requested information has been designated in good faith by the submitter as information considered

protected from disclosure under 5 U.S.C. 552(b)(4) or (6); and

(ii) The Board has reason to believe that the requested information may be protected from disclosure, but has not yet determined whether the information may be protected from disclosure.

(2) Where a submitter has not requested confidential treatment but the Board reasonably believes that disclosure of information may cause substantial competitive harm to the submitter or would result in an unwarranted invasion of personal privacy, the Board may notify a submitter of the receipt of a request for access to that information and provide the submitter an opportunity to respond.

(3) The notice given to the submitter shall:

(i) Describe the information that has been requested or include a copy of the requested records or portions of records containing the information. In cases involving a voluminous number of submitters, the Board may post or publish a notice in a place or manner reasonably likely to inform the submitters of the proposed disclosure, instead of sending individual notifications; and

(ii) Give the submitter a reasonable opportunity, not to exceed 10 working days from the date of notice, to submit written objections to disclosure of the information.

(c) *Exceptions to notice to submitter.* Notice to the submitter need not be given if:

(1) The Board determines that the information is exempt under the FOIA and, therefore, will not be disclosed;

(2) The requested information has been lawfully published or has been officially made available to the public;

(3) Disclosure of the information is required by a statute (other than 5 U.S.C. 552) or by a regulation issued in accordance with the requirements of Executive Order 12,600 of June 23, 1987; or

(4) The submitter's claim of confidentiality appears obviously frivolous or has already been denied by the Board. In such case, the Board shall give the submitter written notice of the determination to disclose the information at least five working days prior to disclosure.

(d) *Notice to requester.* The requester shall be notified whenever:

(1) The submitter is provided with notice and an opportunity to object to disclosure under paragraph (b) of this section;

(2) The submitter is notified of the Board's intention to disclose the requested information; or

(3) The submitter files a lawsuit to prevent the disclosure of information.

(e) *Written objections by submitter.* (1) Upon receipt of the notice referenced in paragraph (b) of this section, a submitter that has any objections to disclosure should provide a detailed written statement that specifies all grounds for withholding the particular information under any exemption identified in § 261.15(a). A submitter relying on § 261.15(a)(4) as the basis for nondisclosure must explain why the information constitutes a trade secret or commercial or financial information that is confidential and must explain the consequences of disclosure of the information.

(2) A submitter who fails to respond within the time period specified in the notice will be considered to have no objection to disclosure of the information. The Board is not required to consider any information received after the date of any disclosure decision. Any information provided by a submitter under this subpart, including a written request for confidential treatment, may itself be subject to disclosure under the FOIA.

(f) *Analysis of objections.* The Board's determination to disclose any information for which confidential treatment has been requested shall be communicated to the submitter immediately. If the Board determines to disclose the information and the submitter has objected to such disclosure pursuant to paragraph (e) of this section, the Board shall provide the submitter with the reasons for disclosure and shall delay disclosure for 10 working days from the date of the determination.

(g) *Notice of lawsuit.* The Board shall promptly notify any submitter of information covered by this section of the filing of any legal action against the Board to compel disclosure of such information.

Subpart C—Nonpublic Information Made Available to Supervised Financial Institutions, Governmental Agencies, and Others in Certain Circumstances

§ 261.20 General.

(a) All confidential supervisory information and other nonpublic information, including but not limited to information made available under this subpart, remains the property of the Board, and except as otherwise provided in this regulation, no person, entity, agency, or authority to whom the information is made available or who otherwise possesses the information, including any officer, director, employee, or agent thereof, may use any such information for an unauthorized purpose or disclose any such information without the prior written permission of the General Counsel.

(b) The disclosure of confidential supervisory information or other nonpublic information in accordance with this subpart shall not constitute a waiver by the Board of any applicable privileges.

(c) Nothing in this subpart shall be construed to limit or restrict the authority of the Board to impose any additional conditions or limitations on the use and disclosure of confidential supervisory information or other nonpublic information. Further, nothing in this subpart shall be construed to limit or restrict the authority of the Board to make discretionary disclosures of confidential supervisory information or other nonpublic information in addition to the disclosures expressly provided for in this subpart.

§ 261.21 Confidential supervisory information made available to supervised financial institutions.

(a) *Disclosure of confidential supervisory information to supervised financial institutions.* The Board or the appropriate Reserve Bank may disclose confidential supervisory information concerning a supervised financial institution to that supervised financial institution.

(b) *Disclosure of confidential supervisory information by supervised financial institutions—(1) General.* Any supervised financial institution lawfully in possession of confidential supervisory information pursuant to this section may disclose such information to its directors, officers, or employees, and to the directors, officers, or employees of its affiliates, but only to the extent those individuals have a need for the information in the performance of their official duties.

(2) *Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Bureau of Consumer Financial Protection, and state financial supervisory agencies.* Any supervised financial institution lawfully in possession of confidential supervisory information about that institution pursuant to this section may, with the concurrence of the institution's central point of contact at the Reserve Bank or equivalent supervisory team leader (CPC), disclose such information to the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Bureau of Consumer Financial Protection, and the state financial supervisory agency that supervises that institution when the CPC determines that the receiving agency has a legitimate supervisory or regulatory interest in the information.

(3) *Legal counsel and auditors.* In connection with the provision of legal or auditing services to the supervised financial institution, the supervised financial institution may disclose confidential supervisory information to its legal counsel or auditors so long as the disclosure is necessary to the legal counsel's or auditor's engagement and the legal counsel or auditor is engaged by the supervised financial institution pursuant to a written agreement under which the legal counsel or auditor agrees that:

(i) It will treat the confidential supervisory information in accordance with this subpart;

(ii) It will not use the confidential supervisory information for any purpose other than in connection with the particular engagement with the supervised financial institution;

(iii) It will strictly limit disclosure of the confidential supervisory information to those of its staff who have a need to know the information for the purposes of the engagement and who are bound by written agreement to keep the information confidential in accordance with this subpart;

(iv) It will not disclose the confidential supervisory information to any third party for any purpose without the prior written approval of the General Counsel; and

(v) It will return or certify the destruction of the confidential supervisory information or, in the case of electronic files, render the files effectively inaccessible through access control measures or other means, at the conclusion of the engagement.

(4) *Other service providers.* (i) A supervised financial institution that seeks to disclose confidential supervisory information to other service providers (such as consultants,

contingent workers, and technology providers) (hereinafter, “service provider”) engaged by the supervised financial institution must submit a written request to the financial institution’s CPC that identifies:

(A) The purpose and scope of the service provider’s engagement;

(B) The specific business need to disclose confidential supervisory information to the service provider; and

(C) The specific documents or materials the supervised financial institution seeks permission to disclose to the service provider.

(i) The CPC may authorize, in whole or in part, or deny the request. If the CPC authorizes a supervised financial institution to disclose confidential supervisory information to a service provider under this section, the supervised financial institution may not disclose confidential supervisory information to the service provider unless the service provider has agreed to the terms set out in paragraphs (b)(3)(i) through (v) of this section.

(5) *Other applicable internal procedures.* A CPC’s action under this section may require concurrence of other Federal Reserve staff in accordance with internal supervisory procedures.

§ 261.22 Nonpublic information made available by the Board to governmental agencies and entities exercising governmental authority.

(a) *Disclosure to Federal and State financial institution supervisory agencies.* The Director of the Division of Supervision and Regulation, the Director of the Division of Consumer and Community Affairs, the General Counsel, or the appropriate Reserve Bank may, for legitimate supervisory or regulatory purposes and with or without a request, disclose confidential supervisory information and other nonpublic information to the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Bureau of Consumer Financial Protection, and a state financial institution supervisory agency.

(b) *Disclosures pursuant to the Equal Credit Opportunity Act, the Fair Housing Act, and the Employee Retirement Income Security Act.* The Director of the Division of Supervision and Regulation, the Director of the Division of Consumer and Community Affairs, or the General Counsel may disclose confidential supervisory information and other nonpublic information concerning a supervised financial institution to:

(1) The Attorney General or to the Secretary of the Department of Housing

and Urban Development related to the enforcement of the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*) or the Fair Housing Act (42 U.S.C. 3601 *et seq.*); and

(2) The Secretary of the Department of Labor and the Secretary of the Department of the Treasury in accordance with section 3004(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1204(b)).

(c) *Disclosure to other governmental agencies and entities exercising governmental authority.* Except as provided in paragraph (d) or (e) of this section, other federal, state, and local agencies, including law enforcement agencies, and other entities exercising governmental authority, may file written requests with the Board for access to confidential supervisory information and other nonpublic information under this section, including information in the form of testimony and interviews from current or former Federal Reserve System staff. Properly accredited foreign law enforcement agencies and other foreign government agencies may also file written requests with the Board in accordance with this paragraph, except that provision of confidential supervisory information to foreign bank regulatory or supervisory authorities is governed by 12 CFR 211.27.

(1) *Contents of request.* To obtain access to confidential supervisory information or other nonpublic information under this section, including information in the possession of a person other than the Board, the requester shall address a letter request to the Board’s General Counsel, specifying:

(i) The particular information, kinds of information, and where possible, the particular documents to which access is sought;

(ii) The reasons why such information cannot be obtained from the supervised financial institution in question or another source rather than from the Board;

(iii) A statement of the law enforcement purpose or other statutory purpose for which the information shall be used;

(iv) A commitment that the information requested shall not be disclosed to any person outside the requesting agency or entity without the written permission of the General Counsel; and

(v) If the document or information requested includes customer account information subject to the Right to Financial Privacy Act, as amended (12 U.S.C. 3401 *et seq.*), any Federal agency request must include a statement that such customer account information

need not be provided, or a statement as to why the Act does not apply to the request, or a certification that the requesting federal agency has complied with the requirements of the Act.

(2) *Action on request.* The General Counsel may approve the request upon determining that:

(i) The request complies with this section;

(ii) The information is needed in connection with a formal investigation or other official duties of the requesting agency or entity;

(iii) Satisfactory assurances of confidentiality have been given; and

(iv) Disclosure is consistent with the supervisory and regulatory responsibilities and policies of the Board.

(d) *Federal and state grand jury, criminal trial, and government administrative subpoenas.* The General Counsel shall review and may approve the disclosure of nonpublic information pursuant to federal and state grand jury, criminal trial, and government administrative subpoenas.

(e) *Conditions or limitations; written agreements.* The General Counsel may impose any conditions or limitations on disclosure that the General Counsel determines to be necessary to effect the purposes of this regulation, including the protection of the confidentiality of the Board’s information, or to ensure compliance with applicable laws or regulations. In addition, Board or Reserve Bank staff may make disclosures pursuant to any written agreement entered into by the Board when authorized by the express terms of such agreement or by the General Counsel.

§ 261.23 Other disclosure of confidential supervisory information.

(a) *Board policy.* (1) It is the Board’s policy regarding confidential supervisory information that such information is confidential and privileged. Accordingly, the Board does not normally disclose confidential supervisory information to the public or authorize third parties in possession of confidential supervisory information to further use or disclose the information. When considering a request to access, use, or to disclose confidential supervisory information under this section, the Board will not authorize access, use, or disclosure unless the requesting person is able to show a substantial need to access, use, or disclose such information that outweighs the need to maintain confidentiality.

(2) Notwithstanding any other provision of this part, the Board will not

authorize access to or disclosure of any suspicious activity report (SAR), or any information that would reveal the existence of a SAR, except as necessary to fulfill official duties consistent with Title II of the Bank Secrecy Act. For purposes of this part, “official duties” shall not include the disclosure of a SAR, or any information that would reveal the existence of a SAR, in response to a request for disclosure of nonpublic information or a request for use in a private legal proceeding, including a request pursuant to this section.

(b) *Requests in connection with litigation.* Except as provided in §§ 261.21 and 261.22,

(1) In connection with any proposed use of confidential supervisory information in litigation before a court, board, commission, agency, or arbitration, any person who:

(i) Seeks access to confidential supervisory information from the Board or a Reserve Bank (including the testimony of present or former Board or Reserve Bank employees on matters involving confidential supervisory information, whether by deposition or otherwise);

(ii) Seeks to use confidential supervisory information in its possession or to disclose such information to another party; or

(iii) Seeks to require a person to disclose confidential supervisory information to a party, shall file a written request with the General Counsel.

(2) The request shall include:

(i) The judicial or administrative action, including the case number and court or adjudicative body and a copy of the complaint or other pleading setting forth the assertions in the case;

(ii) A description of any prior judicial or other decisions or pending motions in the case that may bear on the asserted relevance of the requested information;

(iii) A narrow and specific description of the confidential supervisory information the requester seeks to access or to disclose for use in the litigation including, whenever possible, the specific documents the requester seeks to access or disclose;

(iv) The relevance of the confidential supervisory information to the issues or matters raised by the litigation;

(v) The reason why the information sought, or equivalent information adequate to the needs of the case, cannot be obtained from any other source; and

(vi) A commitment to obtain a protective order acceptable to the Board from the judicial or administrative tribunal hearing the action preserving

the confidentiality of any information that is provided.

(3) In the case of requests covered by paragraph (b)(1)(ii) of this section, the Board may require the party to whom disclosure would ultimately be made to substantiate its need for the information prior to acting on any request.

(c) *All other requests.* Any other person seeking to access, use, or disclose confidential supervisory information for any other purpose shall file a written request with the General Counsel. A request under this paragraph (c) shall describe the purpose for which access, use, or disclosure is sought and the requester shall provide other information as requested by the General Counsel.

(d) *Action on request—(1) Determination of approval.* The General Counsel may approve a request made under this section provided that he or she determines that:

(i) The person seeking access, or the person to whom access would be provided, has shown a substantial need to access confidential supervisory information that outweighs the need to maintain confidentiality; and

(ii) Approval is consistent with the supervisory and regulatory responsibilities and policies of the Board.

(2) *Conditions or limitations.* The General Counsel may, in approving a request, impose such conditions or limitations on use of any information disclosed as is deemed necessary to protect the confidentiality of the Board’s information.

(e) *Exhaustion of administrative remedies for discovery purposes in civil, criminal, or administrative action.*

Action on a request under this section by the General Counsel is necessary in order to exhaust administrative remedies for discovery purposes in any civil, criminal, or administrative proceeding. A request made pursuant to § 261.11 of this regulation does not exhaust administrative remedies for discovery purposes. Therefore, it is not necessary to file a request pursuant to § 261.11 to exhaust administrative remedies under this section.

§ 261.24 Subpoenas, orders compelling production, and other process.

(a) Any person (including any officer, employee, or agent of the Board or any Reserve Bank) who is served with a subpoena, order, or other judicial or administrative process requiring the production of confidential supervisory information or other nonpublic information of the Board or requiring the person’s testimony regarding such

Board information in any proceeding, shall:

(1) Promptly inform the Board’s General Counsel of the service and all relevant facts, including the documents, information or testimony demanded, and any facts relevant to the Board in determining whether the material requested should be made available;

(2) Inform the entity issuing the process of the substance of these rules and, in particular, of the obligation to follow the request procedures in § 261.23(b); and

(3) At the appropriate time inform the court or tribunal that issued the process of the substance of these rules.

(b) Unless authorized by the Board or as ordered by a federal court in a judicial proceeding in which the Board has had the opportunity to appear and oppose discovery, any person who is required to respond to a subpoena or other legal process concerning Board confidential supervisory information or other non-public Board information shall attend at the time and place required and respectfully decline to disclose or to give any testimony with respect to the information, basing such refusal upon the provisions of this regulation. If the court or other body orders the disclosure of the information or the giving of testimony, the person having the information shall continue to decline to disclose the information and shall promptly report the facts to the Board for such action as the Board may deem appropriate.

(c) A litigant or non-party who is served with a civil request for production of documents calling for production of confidential supervisory information should proceed under § 261.23 rather than this section.

By order of the Board of Governors of the Federal Reserve System, June 10, 2019.

Ann Misback,
Secretary of the Board.

[FR Doc. 2019–12524 Filed 6–14–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0441; Product Identifier 2019–NM–036–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2000–03–20 R1, which applies to all Airbus SAS Model A300 B4–601, B4–603, and B4–620, Model A300 B4–600R series, and Model A300 F4–605R airplanes. AD 2000–03–20 R1 requires repetitive ultrasonic inspections to detect cracks on the forward fittings in the radius of a certain frame, adjacent to the tension bolts in the center section of the wings, and various follow-on actions. Since we issued AD 2000–03–20 R1, we have determined that the existing compliance times must be reduced. This proposed AD would retain the requirements of AD 2000–03–20 R1, add new airplanes to the applicability, and introduce new compliance times for the required inspections as specified in a European Aviation Safety Agency (EASA) AD, which will be incorporated by reference. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 1, 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 identified in this proposed AD that will be incorporated by reference (IBR), contact the EASA, 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–2019–0441; 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 NPRM, 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: Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA–2019–0441; Product Identifier 2019–NM–036–AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM 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 NPRM.

Discussion

We issued AD 2000–03–20 R1, Amendment 39–12298 (66 FR 34530, June 29, 2001) (“AD 2000–03–20 R1”), for all Airbus SAS Model A300 B4–601, B4–603, and B4–620, Model A300 B4–600R series, and Model A300 F4–605R airplanes. AD 2000–03–20 R1 requires repetitive ultrasonic inspections to detect cracks on the forward fittings in the radius of frame 40, adjacent to the tension bolts in the center section of the wings, and various follow-on actions. AD 2000–03–20 R1 resulted from reports of cracking due to fatigue-related stress in the radius of frame 40 adjacent to the tension bolts at the center/outer wing junction. We issued AD 2000–03–20 R1 to address fatigue cracking on the forward fittings in the radius of frame 40 adjacent to the tension bolts in the center section of the wings, which could

result in reduced structural integrity of the wings.

Actions Since AD 2000–03–20 R1 Was Issued

Since we issued AD 2000–03–20 R1, we have determined that the existing compliance times must be reduced.

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0044, dated March 7, 2019 (“EASA AD 2019–0044”) (also referred to as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for certain Airbus SAS Model A300 B4–600 series, Model A300 B4–600R series, Model A300 F4–605R, and Model A300 C4–605R Variant F airplanes. The MCAI states:

During sampling inspection on A300 fleet, cracks were reported in the radius of frame (FR) 40, adjacent to the tension bolts at the centre wing/outer wing.

This condition, if not detected and corrected, could lead to a reduction of the residual strength of the structure and lead to extensive repairs.

Prompted by these findings and to address this potential unsafe condition on A300–600 fleet, Airbus issued [service bulletin] SB A300–57–6062 to provide inspection instructions. Consequently, [Direction Generale de l’Aviation Civile] DGAC France published AD 95–063–177 [which corresponds to FAA AD 2000–03–20 R1] for A300–600 aeroplanes (except A300F4–622R), followed by AD 98–040–012 for A300–600ST aeroplanes (both ADs later revised) to require initial and repetitive ultrasonic test (UT) and high-frequency eddy current (HFEC) inspections and, depending on findings, accomplishment of applicable corrective action(s). Depending on a crack finding, Airbus SB A300–57–6062 instructs to accomplish a repair per SB A300–57–6084 to restore FR40 strength capability. That SB does not apply to A300–600ST aeroplanes.

Since DGAC France AD 1998–040–012(B) R1 and AD F–1995–063–177 R5 (EASA approval 2003–662) were issued, material data used in the frame of fatigue and damage tolerance analysis have been changed. It was determined that the existing threshold and interval values must be reduced.

Consequently, Airbus revised SB A300–57–6062 to Revision 05 to take into account the new thresholds and intervals. Airbus also issued SB A300–57–9036, specifically for A300–600ST aeroplanes.

For the reasons described above, this [EASA] AD retains the requirements of DGAC France AD 1998–040–012(B) R1 and AD F–1995–063–177 R5, which are superseded, and introduces new thresholds and intervals for the required inspections [and adds Model A300 B4–622 and A300 C4–605 R Variant F airplanes to the applicability].

The initial compliance time for airplanes on which Airbus Service Bulletin A300–57–6048 has not been embodied is before 7,600 total flight

cycles. The initial compliance time for airplanes on which Airbus Service Bulletin A300–57–6048 has been embodied is before 11,100 total flight cycles.

Explanation of Retained Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2000–03–20 R1, this proposed AD would retain all of the requirements of AD 2000–03–20 R1. Those requirements are referenced in EASA AD 2019–0044, which, in turn, is referenced in paragraph (g) of this proposed AD.

Explanation of Change to Credit Service Information

Note 2 of AD 2000–03–20 R1 provides credit for inspections accomplished using Airbus Service Bulletin A300–57–6062, Revision 1, dated July 23, 1995. However, EASA AD 2019–0044 does not include credit for Airbus Service Bulletin A300–57–6062, Revision 1, dated July 23, 1995. Therefore, this proposed AD would not include that credit.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0044 describes procedures for initial and repetitive UT and HFEC inspections and applicable corrective actions. Corrective actions

include reworking the fuselage lateral panel at frame 40, blending out around cracks, and repair. 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 and Requirements of This Proposed AD

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

Proposed Requirements of this NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2019–0044 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD. This proposed AD also adds Model A300 B4–622 and A300 C4–605 R Variant F

airplanes to the applicability. This proposed AD also would require sending the inspection results to Airbus.

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 2019–0044 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with the provisions specified in EASA AD 2019–0044, except for any differences identified as exceptions in the regulatory text of this proposed AD. Service information specified in EASA AD 2019–0044 that is required for compliance with EASA AD 2019–0044 will be available on the internet <http://www.regulations.gov> by searching for and locating Docket No. FAA–2019–0441 after the FAA final rule is published.

Costs of Compliance

We estimate that this proposed AD affects 65 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS *

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2000–03–20 R1	2 work-hours × \$85 per hour = \$170	\$0	\$170	\$11,050
New proposed actions	161 work-hours × \$85 per hour = \$13,685	0	13,685	889,525

* Table does not include estimated costs for reporting.

We estimate that it would take about 1 work-hour per product to comply with the proposed reporting requirement in this proposed AD. The average labor rate is \$85 per hour. Based on these figures, we estimate the cost of reporting the inspection results on U.S. operators to be \$5,525, or \$85 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control

number for the collection of information required by this NPRM is 2120–0056. The paperwork cost associated with this NPRM has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this NPRM is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW, Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

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

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Will not affect intrastate aviation in Alaska; and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2000–03–20 R1, Amendment 39–12298 (66 FR 34530, June 29, 2001), and adding the following new AD:

Airbus SAS: Docket No. FAA–2019–0441; Product Identifier 2019–NM–036–AD.

(a) Comments Due Date

We must receive comments by August 1, 2019.

(b) Affected ADs

This AD replaces AD 2000–03–20 R1, Amendment 39–12298 (66 FR 34530, June 29, 2001) ("AD 2000–03–20 R1").

(c) Applicability

This AD applies to Airbus SAS airplanes identified in paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD, certificated in any category, as identified in European Aviation Safety Agency (EASA) 2019–0044, dated March 7, 2019 ("EASA AD 2019–0044").

(1) Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(2) Model A300 B4–605R and B4–622R airplanes.

(3) Model A300 F4–605R airplanes.

(4) Model A300 C4–605R Variant F airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by reports of cracking due to fatigue-related stress in the radius of frame 40, adjacent to the tension bolts at the center/outer wing junction. We are issuing this AD to address fatigue cracking on the forward fittings in the radius of frame 40, adjacent to the tension bolts in the center section of the wings, which could result in reduced structural integrity of the wings.

(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 2019–0044.

(h) Exceptions to EASA AD 2019–0044

(1) For purposes of determining compliance with the requirements of this AD: Where EASA AD 2019–0044 refers to its effective date, this AD requires using the effective date of this AD.

(2) The "Remarks" section of EASA AD 2019–0044 does not apply to this AD.

(3) Paragraph (5) of EASA AD 2019–0044 specifies to report all inspection results to Airbus. For this AD, report all inspection results to Airbus Service Bulletin Reporting Online Application on Airbus World (<https://w3.airbus.com/>) at the applicable time specified in paragraph (h)(3)(i) or (h)(3)(ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(4) For Model A300 B4–622 and A300 C4–605 R Variant F airplanes: The initial compliance time for the inspections required by EASA AD 2019–0044 is at the applicable time specified in EASA AD 2019–0044, or within 12 months after the effective date of this AD, whichever occurs later.

(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)(2) of this AD. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov.

(i) 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.

(ii) AMOCs approved previously for AD 2000–03–20 R1 are approved as AMOCs for the corresponding provisions of EASA AD 2019–0044 that are required by paragraph (g) of this AD.

(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 2019–0044 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.

(4) *Paperwork Reduction Act Burden Statement:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW, Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(j) Related Information

(1) For information about EASA AD 2019-0044, 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>. 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 2019-0044 may be found in the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2019-0441.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3225.

Issued in Des Moines, Washington, on June 10, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019-12664 Filed 6-14-19; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2018-0956]

RIN 1625-AA09

Drawbridge Operation Regulations; Tensaw River, Hurricane, AL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating schedule that governs the CSX Railroad swing bridge across the Tensaw River mile 15.0, Hurricane, Baldwin County, AL. The bridge owner, CSX Transportation, submitted a request to allow the bridge to require a ten-hours-notice for bridge openings because there are infrequent bridge openings. This proposal would remove the drawbridge tender during daylight hours.

DATES: Comments and related material must be received by the Coast Guard on or before July 17, 2019.

ADDRESSES: You may submit comments identified by docket number USCG-2018-0956 using Federal eRulemaking Portal at <http://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for

further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Mr. Doug Blakemore, Eighth Coast Guard District Bridge Administrator; telephone (504) 671-2128, email Douglas.A.Blakemore@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
CSX	CSX Railroad
DHS	Department of Homeland Security
E.O.	Executive Order
FR	Federal Register
OMB	Office of Management and Budget
Pub. L.	Public Law
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose and Legal Basis

CSX has requested to change the operating requirements for the CSX railroad bridge across the Tensaw River mile 15.0, Hurricane, Baldwin County, Alabama. This bridge currently opens according to 33 CFR part 117.113 and opens on signal; except that, from 5 p.m. to 9 a.m. the draw shall open on signal if at least eight-hours-notice is given. CSX has requested that the bridge open on signal if at least ten-hours-notice is given at all times.

This bridge spans the Tensaw River that is currently used by small recreational boats, house boats, and a tour boat. The bridge has a vertical clearance of 11 feet above mean high water in the closed to vessel position and unlimited vertical clearance in the open to vessel traffic position. There are few vessel movements through this bridge. From July 2017 through February 2018 the bridge opened 52 times for vessel passage. This equates to less than 7 times each month. Of these openings 38 were made for recreational vessels, 16 were made for a tour boat, 6 were made for house boats, and 2 were made for local law enforcement vessels.

This change would allow CSX to align bridge tender operations with daylight and night time hours and provide for the reasonable needs of navigation.

The Coast Guard is issuing this NPRM under authority 33 U.S.C. 499.

III. Discussion of Comments and Change

The Coast Guard's decision to promulgate a drawbridge regulation depends primarily upon the effect of the proposed rule on navigation to assure that the rule provides for the reasonable needs of navigation after consideration

of the rule on the impact to the public. The Coast Guard must ensure that bridges across navigable waters do not unreasonably obstruct waterway traffic and at the same time provide for the reasonable needs of land traffic. Drawbridge operations must balance the needs of vessel, vehicle, rail, pedestrian and recreational traffic in the overall public interest.

Based on the infrequent times that this bridge has opened for vessel traffic over eight months this proposed rule reasonably accommodates waterway users while reducing CSX's burden in operating the bridges. We have not identified any impacts on marine navigation with this proposed rule.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the fact that vessels can still open the draw and transit if advance notice is provided. Those vessels with a vertical clearance requirement of less than 11 feet above mean high water may transit the bridge at any time, and the bridge will open in case of emergency at any time. We believe this proposed change to the drawbridge operation regulations at 33 CFR 117.113 will meet the reasonable needs of navigation.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their

fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

The bridge provides an 11 foot vertical clearance at mean high water that should accommodate most present vessel traffic and the bridge will continue to open on signal for any vessel provided at least 10 hours advance notice is given. While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above, this proposed rule would 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 proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

D. Federalism and Indian Tribal Government

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

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under figure 2–1, paragraph (32)(e), of the Instruction.

A preliminary Record of Environmental Consideration and a Memorandum for the Record are not required for this proposed rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the

outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

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

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

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

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

- 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

- 2. Revise § 117.113 to read as follows:

§ 117.113 Tensaw River

The draw of the CSX Transportation Railroad bridge, mile 15.0 at Hurricane, shall open on signal if at least ten-hours-notice is given. During periods of severe storms or hurricanes, from the time the National Weather Service sounds an “alert” for the area until the “all clear” is sounded, the draw shall open on signal.

Dated: April 16, 2019.

Paul F. Thomas,
Rear Admiral, U.S. Coast Guard, Commander,
Eighth Coast Guard District.

[FR Doc. 2019–12720 Filed 6–14–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2019–0289; FRL–9994–78–Region 7]

Air Plan Approval; Missouri; Revision to Sulfur Dioxide Control Requirements for Lake Road Generating Facility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a State Implementation Plan (SIP) revision submitted by the State of Missouri on November 2, 2018. The revision replaces a Consent Decree in Missouri's SIP with an Administrative Order on Consent (AOC) between the Missouri Department of Natural Resources (MoDNR) and Kansas City Power and Light (KCPL). The EPA is also proposing to approve an amendment to the AOC. This action strengthens Missouri's SIP by replacing an outdated Consent Decree with an AOC and its Amendment that reflect current operating conditions at the facility, and does not result in an increase in sulfur dioxide (SO₂) emissions from the Lake Road Generating Facility.

DATES: Comments must be received on or before July 17, 2019.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2019–0289 to <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Written Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jonathan Meyer, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7140; email address meyer.jonathan@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to the EPA.

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- III. Have the requirements for approval of a SIP revision been met?
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I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2019–0289 at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. What is being addressed in this document?

The EPA is proposing to approve a SIP revision submitted by the State of Missouri on November 2, 2018. The revision consists of an AOC between the MoDNR and KCPL that limits emissions SO₂ from KCPL's Lake Road Generating facility in St. Joseph, Missouri, and an Amendment to the AOC. The AOC and its Amendment replace a Consent Decree in Missouri's SIP and strengthens SO₂ control requirements for KCPL's Lake Road Generating facility. This action strengthens Missouri's SIP by replacing an outdated Consent Decree with an AOC and its Amendment that reflect current operating conditions at the facility and does not result in an increase in SO₂ emissions from the Lake Road Generating Facility.

A. 1997 Violation of the 1971 SO₂ National Ambient Air Quality Standards (NAAQS)

In 1997, a monitor in St. Joseph (Buchanan County), Missouri measured a violation of the 1971 24-hour SO₂ NAAQS. At the time of the 1997 violation, Buchanan County was designated as "Better than National Standards" (equivalent to "attainment") for the 1971 24-hour SO₂ NAAQS. To address the violation, the State of Missouri and the St. Joseph Light and Power (SJLP) Company entered into a Consent Decree that required SO₂ control measures at the SJLP Lake Road power generating facility, hereinafter referred to as the "2000¹ Consent Decree". The 2000 Consent Decree was submitted by the State of Missouri in order to maintain attainment of the 1971 24-hour SO₂ NAAQS and was not submitted because of a SIP call. On November 15, 2001, the EPA approved the 2000 Consent Decree as a revision to Missouri's SIP. (66 FR 57389, November 15, 2001).

B. Designation of Buchanan County for the 2010 SO₂ NAAQS

On June 22, 2010, the EPA established a new 1-hour SO₂ standard ("the 2010 SO₂ NAAQS") and revoked the existing 24-hour and annual primary SO₂ standards. (75 FR 35520, June 22, 2010, at 75 FR 35592). The EPA directed States to continue implementing any attainment and maintenance requirements of the 1971 24-hour SO₂ NAAQS until the requirements were subsumed by any new planning and control requirements associated with the 2010 SO₂ NAAQS. (75 FR 35520, June 22, 2010, at 75 FR 35580).

Accordingly, areas designated as nonattainment for the 2010 SO₂ NAAQS or areas that do not meet the requirements of a SIP call for the 1971 SO₂ NAAQS remain subject to the 1971 SO₂ NAAQS until the area submits, and EPA approves, an attainment plan for the 2010 SO₂ NAAQS. See 40 CFR 50.4(e). However, the EPA also stated that any existing SIP provisions under Clean Air Act (CAA) sections 110, 191 and 192 for the 1971 24-hour SO₂ NAAQS remain in effect. (75 FR 35520, June 22, 2010, at 75 FR 35581).

On January 9, 2018, Buchanan County was designated as Attainment/Unclassifiable for the 2010 SO₂ NAAQS (83 FR 1098, January 9, 2018) and

¹ The EPA is referring to the Consent Decree as the "2000 Consent Decree" to be consistent with the State's November 2, 2018, SIP revision submittal. The 2000 Consent Decree was entered by the Circuit Court of Buchanan County, Missouri, on May 25, 2001.

therefore the State of Missouri was not required to submit a SIP providing for attainment of the SO₂ NAAQS under sections 191 and 192 of the CAA. However, because the 2000 Consent Decree was approved pursuant to section 110 of the CAA, the provisions of the Consent Decree remain in effect notwithstanding EPA's revocation of the 1971 24-hour SO₂ NAAQS and designation of Buchanan County as Attainment/Unclassifiable for the 2010 SO₂ NAAQS.

C. 2015 Administrative Order on Consent and 2018 Amendment

KCPL acquired SJLP's Lake Road facility in 2008. On March 30, 2015, KCPL notified the MoDNR of its intent to cease the combustion of coal in Boiler No. 6 at the facility by April 16, 2016, to comply with the Mercury Air Toxics Standards rule, 40 CFR part 63, subpart UUUUU. KCPL also requested to use natural gas instead of coal as the primary fuel and to designate No. 2 fuel oil the secondary fuel of Boiler No. 6.

Because the 2000 Consent Decree stipulated the type of fuel to be used in each combustion unit, including Boiler No. 6, MoDNR and KCPL entered into an AOC on March 30, 2016, (hereinafter referred to as the "2015² AOC") that included the substantive requirements from the 2000 Consent Decree and revised the fuel requirements for Boiler No. 6. The 2015 AOC did not revise the SO₂ allowable emission rate of 1,400 pounds SO₂ per hour (lbs SO₂/hr) established in the 2000 Consent Decree for Boiler No. 6; therefore, the EPA's proposed approval of this SIP revision will not result in an increase in allowable SO₂ emissions.

On June 13, 2018, the MoDNR and KCPL revised the 2015 AOC to require low sulfur coal as the primary fuel in Boiler No. 5, rather than a blend of high and medium sulfur coal as required by the 2000 Consent Decree and the 2015 AOC. The 2018 AOC Amendment did not revise the SO₂ allowable emission rate of 453.26 lbs SO₂/hr established in the 2000 Consent Decree for Boiler No. 5; therefore, the EPA's proposed approval of this SIP revision will not result in an increase in allowable SO₂ emissions.

Section 110(l) of the CAA prohibits the EPA from approving a SIP revision that interferes with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA. The

MoDNR anticipates that the 2015 AOC and 2018 AOC Amendment will result in decreased SO₂ emissions that will further assist with maintenance and attainment of both the 1971 and 2010 SO₂ NAAQS.

While the 2015 AOC and 2018 AOC Amendment do not reduce allowable emissions from the Lake Road Facility, the use of low sulfur coal as a primary fuel for Boiler No. 5 and natural gas as a primary fuel for Boiler No. 6 will result in a reduction in actual SO₂ emissions. The MoDNR included an analysis of SO₂ emissions from the Lake Road facility between 2002 through 2017 and found that SO₂ emissions have decreased by 89 percent from 2002 through 2017, attributable to the 2000 Consent Decree, and more recently, to the 2015 AOC. As such, the MoDNR has demonstrated, and the EPA proposes to conclude, that the SIP revision is in accordance with the requirements of section 110(l) of the CAA.

A comparison of the requirements of the 2000 Consent Decree, the 2015 AOC and the 2018 Amendment can be found in the Technical Support Document that is included in the docket.

III. Have the requirements for approval of a SIP revision been met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from July 30, 2018, to September 6, 2018, and received zero comments. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

IV. What action is EPA taking?

We are proposing to approve replacing the May 25, 2001, St. Joseph Light and Power Consent Decree with the 2015 AOC and 2018 Amendment between MoDNR and KCPL. We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

V. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Missouri Regulations described in the proposed amendments to 40 CFR part 52 set forth

below. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

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

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

² The EPA is referring to the Administrative Order on Consent as the "2015 AOC" to be consistent with the State's November 2, 2018 SIP revision submittal. The 2015 AOC was signed by the parties in 2016.

practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by

reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 10, 2019.

James Gulliford,
Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart—AA Missouri

■ 2. In § 52.1320, the table in paragraph (d) is amended by:

- a. Revising entry “(17)” and;
- b. Adding entries “(32)” and “(33)” to the end of the table.

The revision and additions read as follows:

§ 52.1320 Identification of plan.

* * * * *
(d) * * *

EPA—APPROVED MISSOURI SOURCE-SPECIFIC PERMITS AND ORDERS

Name of source	Order/ permit No.	State effective date	EPA approval date	Explanation
(17) St. Joseph Light & Power SO ₂ .	Consent Decree	5/21/2001	11/15/2001, 66 FR 57389 and [Date of publication of the final rule in the <i>Federal Register</i>], [<i>Federal Register</i> citation of the final rule].	Replaced on [Date of publication of the final rule in the <i>Federal Register</i>] with (32) and (33).
(32) Kansas City Power and Light—Lake Road Facility.	Administrative Order on Consent No. APCP–2015–118.	9/27/2018	[Date of publication of the final rule in the <i>Federal Register</i>], [<i>Federal Register</i> citation of the final rule].	
(33) Kansas City Power and Light—Lake Road Facility.	Amendment #1 to Administrative Order on Consent No. APCP–2015–118.	9/27/2018	[Date of publication of the final rule in the <i>Federal Register</i>], [<i>Federal Register</i> citation of the final rule].	

* * * * *
[FR Doc. 2019–12539 Filed 6–14–19; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, and 27

[WT Docket No. 19–116, FCC 19–43]

Allocation and Service Rules for the 1675–1680 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: The Federal Communications Commission (Commission) published a document in the *Federal Register* of May 22, 2019 regarding the Commission’s proposal to reallocate the 1675–1680 MHz band for shared use

between incumbent federal operations and new, non-federal flexible wireless (fixed or mobile) use operations. The document provided incorrect information regarding the filing of comments. This document corrects that information.

DATES: June 17, 2019.

FOR FURTHER INFORMATION CONTACT:

Anna Gentry, Mobility Division, Wireless Telecommunications Bureau, at (202) 418–7769, email: anna.gentry@fcc.gov.

Correction

In the *Federal Register* of May 22, 2019, in FR Doc. 2019–10675, on page 23508, in the third column, correct the **ADDRESSES** section to read:

ADDRESSES: You may submit comments, identified by WT Docket No. 19–116, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by

accessing the Commission’s Electronic Comment Filing System (ECFS): <https://www.fcc.gov/ecfs/>. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

• *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. Generally 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. Commenters are only required to file copies in WT Docket No. 19–116.

• 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 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large

print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Office, Office of the Secretary.

[FR Doc. 2019-12717 Filed 6-14-19; 8:45 am]

BILLING CODE 6712-01-P

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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

60-Day Notice of Proposed Information Collection: Partner Information Form (PIF)

AGENCY: U.S. Agency for International Development.

ACTION: Notice of request for public comment.

SUMMARY: The U.S. Agency for International Development (USAID) seeks Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, USAID requests public comment on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: Comments must be received no later than August 16, 2019.

ADDRESSES: You may submit comments by any of the following methods:

1. *Web:* Through the Federal eRulemaking Portal at <http://www.regulations.gov> by entering "Docket Number: AID-2019-0005" in the Search field and following the instructions for submitting comments.

2. *Email:* rulemaking@usaid.gov.

3. *Mail, Hand Delivery, or Courier:* USAID, Bureau for Management, Office of Management Policy, Budget, and Performance (M/MPBP), 1300 Pennsylvania Avenue NW, Washington, DC 20523.

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Colleen Allen at (202) 712-0378, via email at rulemaking@usaid.gov, or via mail at USAID, Bureau for Management, Office of Management Policy, Budget,

and Performance (M/MPBP), 1300 Pennsylvania Avenue NW, Washington, DC.

SUPPLEMENTARY INFORMATION:

Instructions

All comments must be in writing and submitted through one of the methods specified in the **ADDRESSES** section above. All submissions (and attachments) must include the form number, information collection title, and OMB control number. Please include your name, title, organization, postal address, telephone number, and email address in the text of the message. Please note that USAID recommends sending all comments via email or via the Federal eRulemaking Portal because security screening precautions have slowed the delivery and dependability of surface mail to USAID/Washington. Please note that comments submitted in response to this Notice are public record. We recommend that you do not submit detailed personal information, Confidential Business Information (CBI), or any information that is otherwise protected from disclosure by statute.

USAID will only address comments that explain why this form would be inappropriate, ineffective, or unacceptable without a change. Comments that are insubstantial or outside the scope of the notice of request for public comment may not be considered.

Overview of Information Collection

- *Title of Information Collection:* Partner Information Form.

- *OMB Control Number:* 0412-0577.

- *Type of Request:* Revision of a Currently Approved Collection.

- *Originating Office:* Bureau for Management, Office of Management Policy, Budget, and Performance (M/MPBP).

- *Form Number:* AID 500-13.

- *Respondents:* Potential awardees and subawardees.

- *Estimated Annual Number of Responses:* 5,800.

- *Average Time per Response:* 1 hour 30 minutes.

- *Total Estimated Burden Time:* 8,700 hours.

- *Frequency:* On occasion.

- *Obligation to Respond:* Voluntary.

USAID solicits public comments on the following:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Agency.

- 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 respondents, including the use of automated collection techniques or other forms of information technology.

Abstract of Proposed Collection

USAID collects information from individuals and organizations to conduct screening to help ensure that USAID funds, USAID-funded activities, or other resources will not be used to provide support to entities or individuals deemed to be a risk to national security.

USAID vets prospective awardees seeking funding from USAID to mitigate the risk that such funds might benefit entities or individuals who present a national security risk. To conduct vetting, USAID collects information from prospective awardees and subawardees regarding their directors, officers, and/or key employees. The information collected is compared to information gathered from commercial, public, and U.S. government databases to determine the risk that the applying organization or individual might use Agency funds or programs in a way that presents a threat to national security.

Methodology

USAID collects information via mail or electronic submission.

Colleen Allen,

Director, Bureau for Management, Office of Management Policy, Budget, and Performance, U.S. Agency for International Development.

[FR Doc. 2019-12672 Filed 6-14-19; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 11, 2019.

The Department of Agriculture has submitted the following information

collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by July 15, 2019 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725–17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: OIRA_Submission@OMB.EOP.GOV or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Institute of Food and Agriculture

Title: NIFA Proposal Review Process.
OMB Control Number: 0524–0041.

Summary of Collection: The United States Department of Agriculture (USDA), National Institute of Food and Agriculture (NIFA), administers competitive, peer-reviewed research, education and extension programs. The reviews are undertaken to ensure that projects supported by NIFA are of a high-quality and are consistent with the goals and requirements of the funding program. These programs are authorized pursuant to the authorities contained in the National Agricultural Research, Extension, and Teaching Policy Act of

1977, as amended (7 U.S.C. 3101), the Smith-Lever Act, and other legislative authorities.

Need and Use of the Information: The collected information from the evaluations is used to support NIFA grant programs. NIFA uses the results of each proposal to determine whether a proposal should be declined or recommended for award. In order to obtain this information, an electronic questionnaire is used to collect information about potential panel and ad-hoc reviewers. If this information is not collected, it would be difficult for a review panel and NIFA staff to determine which projects warrant funding or identify appropriate qualified reviewers. In addition, Federal grants staff and auditors could not assess the quality or integrity of the review, and the writer of the application would not benefit from any feedback on why the application was funded or not.

Description of Respondents: Individuals or households; Federal Government; State, Local or Tribal Government.

Number of Respondents: 52,000.

Frequency of Responses: Reporting: Weekly; Annually.

Total Burden Hours: 103,400.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–12649 Filed 6–14–19; 8:45 am]

BILLING CODE 3410–09–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2018–0087]

Concurrence With OIE Risk Designation for Bovine Spongiform Encephalopathy

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our preliminary concurrence with the World Organization for Animal Health's (OIE) bovine spongiform encephalopathy (BSE) risk designation for Nicaragua. The OIE recognizes this region as being of negligible risk for BSE. We are taking this action based on our review of information supporting the OIE's risk designation for this region.

DATES: We will consider all comments that we receive on or before August 16, 2019.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov#!/docketDetail;D=APHIS-2018-0087>.

- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2018–0087, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov#!/docketDetail;D=APHIS-2018-0087> or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Kari Coulson, Senior Staff Veterinarian, Strategy and Policy, VS, APHIS, 920 Main Campus Drive, Suite 200, Raleigh, NC 27606; (919) 480–9876; email: kari.f.coulson@usda.gov.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 92, subpart B, “Importation of Animals and Animal Products; Procedures for Requesting BSE Risk Status Classification With Regard To Bovines” (referred to below as the regulations), set forth the process by which the Animal and Plant Health Inspection Service (APHIS) classifies regions for bovine spongiform encephalopathy (BSE) risk. Section 92.5 of the regulations provides that all countries of the world are considered by APHIS to be in one of three BSE risk categories: Negligible risk, controlled risk, or undetermined risk. These risk categories are defined in § 92.1. Any region that is not classified by APHIS as presenting either negligible risk or controlled risk for BSE is considered to present an undetermined risk. The list of those regions classified by APHIS as having either negligible risk or controlled risk can be accessed on the APHIS website at <https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-and-animal-product-import-information/animal-health-status-of-regions>. The list can also be obtained by writing to APHIS at Regionalization Evaluation Services, 4700 River Road, Unit 38, Riverdale, MD 20737.

Under the regulations, APHIS may classify a region for BSE in one of two ways. One way is for regions that have not received a risk classification from

the World Organization for Animal Health (OIE) to request classification by APHIS. The other way is for APHIS to concur with the classification given to a country or region by the OIE.

If the OIE has classified a region as either BSE negligible risk or BSE controlled risk, APHIS will seek information to support concurrence with the OIE classification. This information may be publicly available information, or APHIS may request that regions supply the same information given to the OIE. APHIS will announce in the **Federal Register**, subject to public comment, its intent to concur with an OIE classification.

In accordance with this process, we are giving notice in this document that APHIS intends to concur with the OIE risk classification of Nicaragua as a region of negligible risk for BSE.

The OIE recommendation regarding Nicaragua can be viewed at <http://www.oie.int/animal-health-in-the-world/official-disease-status/bse/list-of-bse-risk-status/>. The conclusions of the OIE scientific commission for Nicaragua can be viewed at http://www.oie.int/fileadmin/Home/eng/InternationalStandard_Setting/docs/pdf/SCAD/A_SCAD_Feb2018.pdf (page 47).

After reviewing any comments we receive, we will announce our final determination regarding the BSE classification of Nicaragua in the **Federal Register**, along with a discussion of and response to pertinent issues raised by commenters. If APHIS recognizes Nicaragua as negligible risk for BSE, the Agency will include that region on the list of regions of negligible risk for BSE that is available to the public on the Agency's website at <https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-and-animal-product-import-information/animal-health-status-of-regions>.

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

Done in Washington, DC, this 11th day of June 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–12654 Filed 6–14–19; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection: Comment Request—Form FNS–380–1, Supplemental Nutrition Assistance Program's Quality Control Review Schedule

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This is a revision of a currently approved collection.

DATES: Written comments must be received on or before August 16, 2019.

ADDRESSES: Comments may be sent to: Stephanie Proska, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 822, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Stephanie Proska at 703–305–0928 or via email to SNAPHQ-WEB@fns.usda.gov. Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov>, and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Stephanie Proska at 703–305–2437.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the

methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Quality Control Review Schedule.

Form Number: FNS 380–1.

OMB Control Number: 0584–0299.

Expiration Date: July 31, 2019.

Type of Request: Revision of a currently approved collection.

Abstract: The Supplemental Nutrition Assistance Program's (SNAP) Quality Control (QC) Review Schedule form (FNS 380–1) collects QC and household characteristics data. The information needed to complete this form is obtained from the SNAP case record and State agencies quality control findings. The information is used to monitor and reduce errors, develop policy strategies, and analyze household characteristic data.

Affected Public: 53 State, Local and Tribal Governments.

Estimated Number of Responses per Respondent: 858.43.

Estimated Total Annual Responses: 90,994. This includes 45,497 responses to report on sampled active case files for QC review and 45,497 records maintained by States.

Estimated Time per Response: 1.0796 hours for reporting and recordkeeping. The estimated time of response for State agencies to report is approximately 1.056 hours per response and the estimated response time for State agencies to do recordkeeping is approximately 0.0236 hours per record.

Estimated Total Annual Burden on Respondents: 49,118.56 hours.

See the table below for estimated total annual burden for each type of respondent.

REPORTING AND RECORDKEEPING BURDEN

Respondent	Estimated # respondents	Responses annually per respondent	Total annual responses (Col. bxc)	Estimated avg. # of hours per response	Estimated total hours (Col. dx)
State Agencies— <i>Reporting</i>	53	858.43	45,497	1.056	48,044.83
State Agencies— <i>Recordkeeping</i>	53	858.43	45,497	0.0236	1,073.73
Total Reporting Burden	53	.....	90,994	1.0796	49,118.56

Dated: June 10, 2019.

Brandon Lipps,

Administrator, Food and Nutrition Service.

[FR Doc. 2019-12638 Filed 6-14-19; 8:45 am]

BILLING CODE 3410-30-P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection

Activities: Proposed Collection; Comment Request—Form FNS-380, Worksheet for Supplemental Nutrition Assistance Program (SNAP) Quality Control (QC) Reviews

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a renewal of a currently approved information collection request.

DATES: Written comments must be received on or before August 16, 2019.

ADDRESSES: Comments may be sent to: Stephanie Proska, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 822, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Stephanie Proska at 703-305-0928 or via email to SNAPHQ-WEB@fns.usda.gov. Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov>, and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of this information collection should be directed to Stephanie Proska at 703-305-2437.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the

agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Worksheet for the Supplemental Nutrition Assistance Program's Quality Control Reviews.

Form Number: FNS 380.

OMB Control Number: 0584-0074.

Expiration Date: September 30, 2019.

Type of Request: Renewal of a currently approved collection.

Abstract: Section 16 of the Food and Nutrition Act of 2008 provides the legislative basis for the operation of the Quality Control (QC) system. Part 275, Subpart C, of SNAP regulations implements the legislative mandates found in Section 16. Regulations at 7 CFR 275.1, 275.14(d) and 275.21(a) and (b)(1) provide the regulatory basis for the QC reporting requirements.

Section 11(a) of the Food and Nutrition Act of 2008 provides the legislative basis for the recordkeeping requirements. SNAP regulations, at 7 CFR 272.1(f), specify that program records must be retained for three years from the month of origin. Regulations at 7 CFR 275.4 specifically address record retention requirements for form FNS-380.

Form FNS-380, is a SNAP worksheet used to determine eligibility and benefits for households selected for review in the QC sample of active SNAP cases. This form provides a systematic means of aiding the State's Quality Control Reviewer in analyzing the case record, planning and doing field investigation and gathering, comparing, analyzing and evaluating data.

We estimate the total reporting burden for the collection of information to support SNAP QC as 428,745.53 hours. This includes approximately 8.9 hours for State Agencies to analyze each household case record including planning and carrying out the field investigation; gathering, comparing, analyzing and evaluating the review data and forwarding selected cases to the Food and Nutrition Service for

Federal validation, totaling approximately 404,923.30 hours for the entire caseload. We are also including an average interview burden of 30 minutes (0.5 hours) for each household, creating a reporting burden for them for 22,748.50 hours. Additionally, we estimate the recordkeeping burden per record for the State Agencies to be 0.0236 hours, thereby making the recordkeeping burden associated with this information collection for the State Agencies to be 1,073.73 hours. The total estimated reporting and recordkeeping burden for this collection is 428,745.53 hours and 136,491 total annual responses for reporting and recordkeeping.

Based on the most recent table of active case sample sizes and completion rates (FY2017), we estimate 45,497 FNS-380 worksheets and interviews will now be completed annually. We are requesting a three-year approval from OMB for this information collection.

Affected Public: 45,550 (Households, and State, Local and Tribal Governments: Respondent groups identified include: 45,497 Households and 53 State Agencies).

Estimated Number of Responses per Respondent: 1,718 (The total number of responses per household is 1 and total number of responses per State, Local and Tribal Governments is 1,717 to include reporting and recordkeeping responses).

Estimated Total Annual Responses: 136,491. This includes 45,497 sampled active cases for QC review, 45,497 reporting households, and 45,497 records being maintained by 53 State Agencies.

Estimated Time per Response: 9.42 hours (The estimated time of response for State Agencies to report is approximately 534 minutes, 30 minutes for households to report, and the estimated response time for State Agencies to do recordkeeping is approximately 1.42 minutes. Therefore, the total time per response is approximately 565.42 minutes or 9.42 hours.)

Estimated Total Annual Burden on Respondents: 428,745.53 hours. This includes 405,997.03 for State Agencies reporting and recordkeeping plus 22,748.50 Households reporting only. See the table below for estimated total annual burden for each type of respondent.

Respondent	Estimated number respondents	Estimated total responses annually per respondent	Estimated total annual responses (Col. bxc)	Estimated average number of hours per response	Estimated total hours (Col. dxe)
Reporting and Recordkeeping Burden					
State Agencies <i>Reporting</i>	53	858.43	45,497	8.9	404,923.30
State Agencies <i>Recordkeeping</i>	53	858.43	45,497	0.0236	1,073.73
Subtotal Weighted Estimate States Reporting and Record-keeping	53	1,716.86	90,994	8.9236	405,997.03
Households <i>Reporting</i>	45,497	1	45,497	.5	22,748.50
Subtotal Households Reporting Only	45,497	1	45,497	.5	22,748.50
Grand Total Reporting & Recordkeeping Burden for the entire collection—State Agencies and Households	45,550	1,718	136,491	9.4236	428,745.53

Dated: May 29, 2019.

Brandon Lipps,

Administrator, Food and Nutrition Service.

[FR Doc. 2019–12637 Filed 6–14–19; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Settlement Pursuant to CERCLA; Blue Ledge Mine Site, Siskiyou County, California

AGENCY: Forest Service, USDA and Environmental Protection Agency (EPA).

ACTION: Notice of settlement.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), notice is hereby given of an administrative settlement to resolve the alleged liability of the Trust of Michelle E. Tracey (Settling Party) for response costs incurred by the United States at or in connection with the Blue Ledge Mine Site (the “Site”), a former copper mining site located in Siskiyou County, California, on land owned by the Trust.

DATES: Comments must be submitted on or before July 17, 2019.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed settlement are available for public inspection at: Rogue River-Siskiyou National Forest, 3040 Biddle Road, Medford, Oregon, 97504; and USDA Forest Service Pacific Northwest Region, 1220 SW 3rd Avenue, Portland, Oregon 97204–2825. For technical information or a copy of the proposed settlement, contact Karen Gamble at the USDA Forest Service Pacific Northwest Regional Office at (541) 523–1245. For legal information or a copy of the proposed settlement,

contact Gary M. Fremerman with USDA’s Office of the General Counsel, (202) 720–8041; email: gary.fremerman@usda.gov. Comments should reference the Blue Ledge Mine Site, Siskiyou County, California, and should be addressed to Gary M. Fremerman, USDA Office of the General Counsel, Room 2013-South Building, 1400 Independence Avenue SW, Washington, DC 20250–1412; phone (202) 720–8041; email: gary.fremerman@usda.gov. Legal information or a copy of the proposed settlement may also be obtained from Tessa Berman, Assistant Regional Counsel, Office of Regional Counsel (ORC–3–1), U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; phone (415) 972–3472; fax: (415) 947–3570; email: berman.tessa@epa.gov.

SUPPLEMENTARY INFORMATION: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), 42 U.S.C. 9622(i), notice is hereby given of an administrative settlement to resolve the alleged liability of the Trust of Michelle E. Tracey (Settling Party) for response costs incurred by the United States at or in connection with the Blue Ledge Mine Site (the “Site”), a former copper mining site located in Siskiyou County, California, on land owned by the Trust. Under the settlement, the Settling Party has agreed, among other things, to (1) transfer certain land owned by the Trust to the United States, and (2) provide the United States access to all of the land owned by the Trust at the Site to conduct cleanup and any other necessary activities.

The United States has agreed to forego the collection of its costs incurred at the Site from the Trust because of the Trust’s financial inability to pay these costs. The settlement includes a

covenant not to sue the Settling Party pursuant to Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, with regard to the Site.

For thirty (30) days following the date of publication of this notice, the United States will receive written comments relating to the settlement pursuant to CERCLA Section 122(i), 42 U.S.C. 9622(i). The United States will consider all comments received and may modify or withdraw its consent to the settlement if comments received indicate that the settlement is inappropriate, improper, or inadequate. The United States’ response to any comments received will be available for public inspection at: Rogue River-Siskiyou National Forest, 3040 Biddle Road, Medford, Oregon 97504; and USDA Forest Service Pacific Northwest Region, 1220 SW 3rd Avenue, Portland, Oregon 97204–2825.

Dated: May, 31, 2019.

Frank R. Beum,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2019–12752 Filed 6–14–19; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ochoco National Forest; Oregon; Ochoco Wild Horse Herd Management Plan Project

AGENCY: Forest Service, USDA.

ACTION: Withdrawal of notice of intent to prepare an environmental impact statement.

SUMMARY: The Ochoco National Forest is withdrawing the Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the Ochoco Wild Horse Herd Management Plan. The

original NOI was published in the **Federal Register** on June 21, 2017 (82 FR 28301). Upon preliminary evaluation, no potential significant impacts to the human environment are associated with the project. As a result, the Forest is withdrawing its intent to prepare an EIS and is now preparing an Environmental Assessment (EA). All comments previously received regarding this project will be retained and considered in the development of the EA. If it is determined that the project may have significant impacts, the EIS process will be reinitiated and a NOI will be published.

FOR FURTHER INFORMATION CONTACT:

Questions concerning this notice and requests to be added to the project mailing list should be directed to Beth Peer, Ochoco National Forest Environmental Coordinator, 3160 NE 3rd Street, Prineville, Oregon 97754; Phone 541-416-6463. Individuals who have previously submitted comments on this project will remain on the project mailing list and do not need to contact the Forest.

Dated: May 30, 2019.

Gina Owens,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2019-12741 Filed 6-14-19; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF AGRICULTURE

Forest Service

Hood-Willamette Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Hood-Willamette Resource Advisory Committee (RAC) will meet in Keizer, Oregon. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following website: <https://www.fs.usda.gov/main/willamette/workingtogether/advisorycommittees>.

DATES: The meeting will be held on Monday, July 1, 2019, at 12:30 p.m.

All RAC meetings are subject to cancellation. For updated status of the

meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Keizer Community Center, Claggett Room, 930 Chemawa Road Northeast, Keizer, Oregon.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Salem, Oregon. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT:

Jennifer Sorensen, RAC Coordinator, by phone at 541-510-1102 or via email at Jennifer.Sorensen@usda.gov.

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: The purpose of the meeting is to:

1. Introduce all the RAC members to one another;
2. Update all RAC members on the status of the SRS program, and the pending nomination package for new RAC members; and
3. Review and make recommendations on 27 new or modified recreation fee proposals submitted by the Columbia River Gorge National Scenic Area (1 proposal) and the Willamette National Forest (26 proposals).

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by June 25, 2019, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Jennifer Sorensen, RAC Coordinator, 3106 Pierce Parkway, Suite D, Springfield, Oregon 97477; or by email to Jennifer.Sorensen@usda.gov.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the

section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: May 15, 2019.

Frank R. Beum,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2019-12742 Filed 6-14-19; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF AGRICULTURE

Forest Service

Middle Fork Ranger District; Willamette National Forest; Lane County Oregon; Youngs Rock Rigdon EIS

AGENCY: Forest Service, USDA.

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

SUMMARY: The USDA Forest Service is preparing an Environmental Impact Statement (EIS) for the Youngs Rock Rigdon project. The project area is located on the western slope of the Cascades in the Upper Middle Fork Willamette Watershed, approximately 15 miles south of Oakridge, OR. The project area is approximately 33,000 acres in size. Forest management treatments are proposed on approximately 6,800 acres within the project area. The project area is within the Northwest Forest Plan management allocations of Matrix, Late Successional Reserve, Administratively Withdrawn, and Riparian Reserves (3,000 acres). Treatments are also proposed in the 1990 Willamette Forest Plan Deadhorse Special Interest Area (SIA), which would require a Forest Plan Amendment.

DATES: Comments concerning the scope of the analysis must be received by July 17, 2019. The draft EIS is expected April 2020 and the final EIS is expected January 2021.

ADDRESSES: Scoping comments can be submitted electronically through <https://cara.ecosystem-management.org/Public/CommentInput?Project=55868>. Written comments may be submitted via mail or by hand delivery to Duane F. Bishop, District Ranger, Middle Fork Ranger District, 46375 Highway 58, Westfir, OR 97492.

FOR FURTHER INFORMATION CONTACT: Jonathan Tucker (District Planner) by email at jonathan.tucker@usda.gov or by phone at 541-782-5346, between 8:00 a.m. and 4:30 p.m., Pacific Time, Monday through Friday. Individuals who use telecommunication devices for

the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The overall purpose of the Youngs Rock Rigdon EIS is to restore and enhance the ecological, social, and economic aspects of the landscape. The actions proposed in the Youngs Rock Rigdon project are needed to improve stand and landscape diversity, structure, and resiliency; strategically reduce hazardous fuels; sustainably manage existing trail systems and dispersed recreation while minimizing impacts to natural resources; identify a sustainable road system needed for safe and efficient travel and for administration, utilization, and protection of National Forest System lands; and provide a sustainable supply of forest products.

Proposed Action

The Middle Fork Ranger District of the Willamette National Forest is proposing multiple actions to meet the purpose and need of the project, as described below.

Commercial and non-commercial thinning and regeneration harvest is proposed in about 4,500 acres of stands. Within the 3,000 acres of older natural origin stands of mixed conifer forest, the emphasis is on creating late seral open forest through variable density thinning with skips (untreated areas) and gaps (openings) scattered throughout the stands. This thinning would be primarily through timber harvesting but also includes using non-commercial methods such as underburning, fall and leave, and fall and remove for aquatic habitat restoration activities. Gap sizes range from 0.25 to 3 acres in size. Within the 1,500 acres of younger managed stands of mixed conifer and moister upland forest, the emphasis is on connecting late seral forest and creating open seral forest. Multiple logging systems, road maintenance, temporary road construction, and pit development would be required for commercial harvest. Meadow restoration activities on approximately 300 acres would include tree cutting, piling, pile burning, pruning, noxious weed treatment, underburning, and planting native plants. Aquatic restoration activities would occur on approximately 700 acres of floodplain and Riparian Reserves and include streamside tree tipping, Riparian Reserve fall and leave, and floodplain augmentation and instream restoration.

Thinning and fuel treatments would occur in some Riparian Reserves outside of riparian no harvest areas and would include allowing backing prescribed fire. All treatments would be designed to maintain and/or improve Aquatic Conservation Strategy Objectives.

Hazardous fuel reduction treatments would be proposed to reduce existing fuel loadings as well as to reduce logging slash in treated stands to levels within Forest Plan standards and guidelines. Treatments would be proposed in locations that would offer a strategic benefit, in regard to tactics and firefighter safety, for future fire management. Proposed treatments on approximately 1,300 acres of understory fuel treatment units are strategically located to connect fuel breaks around adjacent private industrial forest and would include underburning, understory thinning (removal of brush and trees less than 7 inch DBH [diameter at breast height]), pruning, whipfelling, chipping, piling, and burning. Total post-harvest fuel treatments are 4,500 acres.

The proposed action includes relocating two miles of existing trail and removing and replacing two bridges to minimize impacts within the floodplain and required maintenance due to poor current location. The project also proposes to manage dispersed recreation sites within close proximity to Endangered Species Act listed fish habitat. This would result in some sites being decommissioned, and others being managed to minimize impacts to natural resources (*i.e.*, walk-in sites; designated parking areas, and non-motorized restrictions).

The proposed action would identify a sustainable road system needed for safe and efficient travel and for administration, utilization, and protection of National Forest System lands. The District Ranger and project Interdisciplinary Team propose to implement the Willamette National Forest Road Investment Strategy, which would result in recommendations for system roads to remain open, be stabilized and stored, or be decommissioned.

The activities in the proposed action would provide a sustainable supply of forest products including approximately 65 million board feet of timber.

Forest Plan Amendment

Restoration is needed for the unique mixed conifer forest of oaks and pines in western Oregon. Past fire suppression has created dense forest, where oaks and pine require open forest. The Forest Plan Amendment would allow timber harvest to reduce stand density in the

Deadhorse Management Area 5a—SIA where no programmed harvest is allowed (Willamette Land and Resource Management Plan, IV p. 138). About 400 acres of treatments in the 1,701 acre Deadhorse SIA is proposed, including prescribed fire, meadow enhancement, and removal of timber on about 80 acres; while maintaining and protecting the SIA cultural features. The amendment is specific to the project area and proposed activities and follows the 2012 Planning Rule. The substantive provisions of 36 CFR 219.8 through 219.11 that directly apply to the proposed amendment are § 219.8 Sustainability and § 219.9 Diversity of plant and animal communities.

Responsible Official

The responsible official will be Duane F. Bishop, District Ranger, Middle Fork Ranger District.

Nature of Decision To Be Made

Given the purpose and need, the responsible official will determine whether the proposed actions comply with all applicable laws governing Forest Service actions and with the applicable standards and guidelines found in the Willamette Forest Plan; whether the EIS has sufficient site-specific environmental analysis to make an informed decision; and whether the proposed action meets the purpose and need for action. With this information, the responsible official must decide whether to select the proposed action or one of any other potential alternatives that may be developed, and what, if any, additional actions should be required.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the EIS. Public comments regarding this proposal are requested in order to assist in identifying issues and opportunities associated with the proposal, how to best manage resources, and to focus the analysis. Those wishing to object must meet the requirements at 36 CFR 218.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and

considered; however, anonymous comments will not provide the Agency with the ability to provide the respondent with subsequent environmental documents.

Dated: May 16, 2019.

Frank R. Beum,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2019-12750 Filed 6-14-19; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-485-805]

Carbon and Alloy Seamless Standard, Line and Pressure Pipe (Under 4.5 Inches) From Romania: Preliminary Determination of No Shipments; 2017-2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that there were no shipments of carbon and alloy seamless standard, line and pressure pipe (under 4.5 inches) (small diameter seamless pipe) from Romania during the period of review (POR) August 1, 2017 through July 31, 2018. Interested parties are invited to comment on this preliminary determination of no shipments.

DATES: Applicable June 17, 2019.

FOR FURTHER INFORMATION CONTACT: Katherine Johnson or Samantha Kinney, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4929 or (202) 482-2285, respectively.

SUPPLEMENTARY INFORMATION:

Background

In response to Commerce's notice of opportunity to request an administrative review on small diameter seamless pipe from Romania,¹ United States Steel Corporation (U.S. Steel) (the petitioner) timely requested an administrative review of the antidumping duty (AD) order on small diameter seamless pipe from Romania with respect to Silcotub S.A. (Silcotub), ArcelorMittal Tubular Products Roman S.A. (ArcelorMittal), SC TMK-Artrom S.A. (TMK-Artrom),

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 38682 (August 7, 2018).

and SC Tubinox S.A.² Accordingly, in accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of an administrative review of the AD order on small diameter seamless pipe from Romania.³

In the *Initiation Notice*, Commerce notified the public that it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR.⁴ Accordingly, we released the CBP entry data to all interested parties under an administrative protective order and requested comments regarding the data and respondent selection.⁵ The petitioner submitted comments and Silcotub submitted rebuttal comments.⁶

We subsequently selected TMK-Artrom, the largest exporter and producer of the subject merchandise by volume, based on the CBP data, as the sole mandatory respondent in this review.⁷ In November 2018, we issued the AD questionnaire to TMK-Artrom, to which TMK-Artrom timely responded. Also in November 2018, Silcotub timely submitted a letter stating it had no shipments of subject merchandise during the POR.⁸ We transmitted a "No-Shipment Inquiry" to CBP regarding Silcotub and placed the results on the record of this review.⁹ Pursuant to this

² See Petitioner's Letter, "Carbon and Alloy Seamless Standard Line, and Pressure Pipe (Under 4½ Inches) from Romania: Request for Administrative Review of Antidumping Duty Order," dated August 30, 2018.

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 50077 (October 4, 2018). The name of TMK Artrom S.A. was misspelled in the initiation notice. The correct spelling of the company name can be found in *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 57411 (November 15, 2018).

⁴ *Id.*

⁵ See Memorandum, "Carbon and Alloy Seamless Standard Line and Pressure Pipe (Under 4.5 Inches) from Romania: Customs Data for Respondent Selection," dated October 4, 2018 (Customs Data). We note that the Customs Data showed no reviewable entries during the POR for S.C. Tubinox S.A.

⁶ See Petitioner's letter, "Carbon and Alloy Seamless Standard Line, and Pressure Pipe (Under 4.5 Inches) from Romania: Comments Regarding Respondent Selection," dated October 11, 2018; see also Silcotub's Letter, "Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (under 4.5 inches) from Romania: Rebuttal Comments Regarding Respondent Selection," dated October 16, 2018.

⁷ See Memorandum, "2017-2018 Administrative Review of Carbon and Alloy Seamless Standard, Line and Pressure Pipe (Under 4.5 Inches) from Romania: Respondent Selection," dated October 31, 2018.

⁸ See Silcotub's Letter, "Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (under 4.5 inches) from Romania: Notice of No Sales," dated November 2, 2018.

⁹ See Memorandum, "Carbon and alloy seamless standard, line and pressure pipe (under 4.5 inches) from Romania (A-485-805)," dated March 7, 2019.

inquiry, we received information from CBP regarding entries of subject merchandise from Silcotub. In February 2019, we requested entry packages for shipments identified in the CBP data and placed the information on the record for comment.¹⁰

Also in February 2019, the petitioner submitted a request for a partial withdrawal of administrative review with respect to TMK-Artrom.¹¹ Subsequently, we selected ArcelorMittal as a mandatory respondent¹² and issued the AD questionnaire to this company. On March 4, 2019, we rescinded the administrative review with respect to TMK-Artrom.¹³

On March 20, 2019, ArcelorMittal submitted a no shipment certification letter in response to Commerce's questionnaire.¹⁴ We transmitted a "No-Shipment Inquiry" to CBP with respect to this company and placed the response from CBP on the record.¹⁵ We received timely comments from Silcotub on the entry documents for shipments identified in the CBP data.¹⁶ The petitioner submitted pre-preliminary comments on May 7, 2019.¹⁷ As CBP entry documents are business proprietary, our analysis of Silcotub's no shipment claim is contained in a

¹⁰ See Memorandum, "Request for U.S. Entry Documents—2017-2018 Administrative Review of Carbon and Alloy Seamless Standard, Line and Pressure Pipe (Under 4.5 Inches) from Romania," dated February 5, 2019; see also Memorandum, "2017-2018 Administrative Review of Carbon and Alloy Seamless Standard, Line and Pressure Pipe (Under 4.5 Inches) from Romania: Entry Documents Requested," dated March 26, 2019 (Entry Documents).

¹¹ See Petitioner's Letter, "Carbon and Alloy Seamless Standard Line, and Pressure Pipe (Under 4.5 Inches) from Romania: Partial Withdrawal of Request for Administrative Review of Antidumping Order," dated February 13, 2019.

¹² See Memorandum, "2017-2018 Administrative Review of Carbon and Alloy Seamless Standard, Line and Pressure Pipe (Under 4.5 Inches) from Romania: Second Respondent Selection," dated February 26, 2019.

¹³ See *Carbon and Alloy Seamless Standard, Line and Pressure Pipe (Under 4.5 Inches) From Romania: Partial Rescission of Antidumping Duty Administrative Review; 2017-2018*, 42 FR 7345 (March 4, 2019).

¹⁴ See ArcelorMittal's Letter, "Antidumping Duty Administrative Review of Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (under 4.5 inches) from Romania; ArcelorMittal Tubular Products Roman S.A.: Notice of No Sales," dated March 20, 2019.

¹⁵ See Memorandum, "Carbon and alloy seamless standard, line and pressure pipe (under 4.5 inches) from Romania (A-485-805)," dated April 24, 2019 (Customs Response for ArcelorMittal).

¹⁶ See Silcotub's Letter, "Carbon and Alloy Seamless Standard, Line and Pressure Pipe (under 4½ inches) from Romania: Comments on CBP Entry Documentation," dated April 5, 2019.

¹⁷ See Petitioner's Letter, "Carbon and Alloy Seamless Standard Line, and Pressure Pipe (Under 4.5 Inches) from Romania: U.S. Steel's Pre-Preliminary Comments," dated May 7, 2019.

separate memorandum entitled “No Shipment Certification—Silcotub S.A.”¹⁸

Scope of the Order

See the Appendix for a complete description of the Scope of the Order.

Preliminary Determination of No Shipments

Based on record evidence, we preliminarily determine that ArcelorMittal and Silcotub had no shipments of subject merchandise during the POR. Because Silcotub’s claim of no shipments during the POR involves business proprietary information, our analysis of the issue is contained in the No Shipment Certification Memo. With respect to ArcelorMittal, CBP stated that it did not find any shipments by the company during the POR.¹⁹

Consistent with our practice, we find that it is not appropriate to rescind the review with respect to ArcelorMittal and Silcotub, but rather to complete the review and issue appropriate instructions to CBP based on the final results of this review.²⁰

Public Comment

Interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of this notice.²¹ Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.²² 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 issue; (2) a brief summary of the argument; and (3) a table of authorities.

All submissions to Commerce must be filed electronically via ACCESS and must also be served on interested parties.²³ An electronically filed document must be received successfully in its entirety by Commerce’s electronic records system, ACCESS, by 5:00 p.m.

¹⁸ See Memorandum, “No Shipment Certification—Silcotub S.A.,” dated concurrently with this memorandum (No Shipment Certification Memo) for further discussion of the petitioner’s arguments.

¹⁹ See Customs Response for ArcelorMittal.

²⁰ See, e.g., *Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 75 FR 56989 (September 17, 2010).

²¹ See 19 CFR 351.309(c)(1)(ii).

²² See 19 CFR 351.309(d).

²³ See 19 CFR 351.303(f).

Eastern Time on the date that the document is due.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, using Enforcement and Compliance’s ACCESS system within 30 days of publication of this notice.²⁴ Requests should contain: (1) The party’s name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Unless the deadline is extended pursuant to section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(h)(2), Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice.²⁵

Assessment Rates

If we continue to find in the final results that ArcelorMittal and Silcotub had no shipments of subject merchandise, for entries of subject merchandise during the POR produced by ArcelorMittal and Silcotub for which these companies did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate un-reviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.²⁶

We intend to issue instructions to CBP 15 days after the date of publication of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective 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

²⁴ See 19 CFR 351.310(c).

²⁵ See section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

²⁶ For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for ArcelorMittal and Silcotub will remain unchanged from the rate assigned to them in the most recently completed review of those companies; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently-completed segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 13.06 percent, the all-others rate established in the less-than-fair-value investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also 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 review period. Failure to comply with this requirement could result in the Secretary’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 these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: June 11, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Order

The merchandise under review is small diameter seamless carbon and alloy other than stainless steel standard, line, and pressure pipes and redraw hollows produced, or equivalent, to the American Society for Testing and Materials (ASTM) A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and the American Petroleum Institute (“API”) 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this review also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters described below, regardless of specification.

Specifically included within the scope of these reviews are seamless pipes and redraw hollows, less than or equal to 4.5 inches (114.3 mm) in outside diameter, regardless of wall-thickness, manufacturing process (hot finished or cold-drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish.

The merchandise under review is currently classifiable under items: 7304.10.10.20, 7304.10.50.20, 7304.19.10.20, 7304.19.50.20, 7304.31.30.00, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS classification is provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.

Specifications, Characteristics, and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the ASTM A-106 standard may be used in temperatures of up to 1000 degrees Fahrenheit, at various American Society of Mechanical Engineers ("ASME") code stress levels. Alloy pipes made to ASTM A-335 standard must be used if temperatures and stress levels exceed those allowed for ASTM A-106. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A-106 standard.

Seamless standard pipes are most commonly produced to the ASTM A-53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements. If exceptionally low temperature uses or conditions are anticipated, standard pipe may be manufactured to ASTM A-333 or ASTM A-334 specifications.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless water well pipe (ASTM A-589) and seamless galvanized pipe for fire protection uses (ASTM A-795) are used for the conveyance of water.

Seamless pipes are commonly produced and certified to meet ASTM A-106, ASTM A-53, API 5L-B, and API 5L-X42 specifications. To avoid maintaining separate production runs and separate inventories, manufacturers typically triple or quadruple certify the pipes by meeting the metallurgical requirements and performing the required tests pursuant to the respective

specifications. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A-106 pressure pipes and triple or quadruple certified pipes is in pressure piping systems by refineries, petrochemical plants, and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, ASTM A-106 pipes may be used in some boiler applications.

Redraw hollows are any unfinished pipe or "hollow profiles" of carbon or alloy steel transformed by hot rolling or cold drawing/hydrostatic testing or other methods to enable the material to be sold under ASTM A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-335, ASTM A-589, ASTM A-795, and API 5L specifications.

The scope of these reviews includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a non-covered specification. Standard, line, and pressure applications and the above-listed specifications are defining characteristics of the scope of these reviews. Therefore, seamless pipes meeting the physical description above, but not produced to the ASTM A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-335, ASTM A-589, ASTM A-795, and API 5L specifications shall be covered if used in a standard, line, or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in ASTM A-106 applications. These specifications generally include ASTM A-161, ASTM A-192, ASTM A-210, ASTM A-252, ASTM A-501, ASTM A-523, ASTM A-524, and ASTM A-618. When such pipes are used in a standard, line, or pressure pipe application, such products are covered by the scope of these reviews.

Specifically excluded from the scope of these reviews are boiler tubing and mechanical tubing, if such products are not produced to ASTM A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-335, ASTM A-589, ASTM A-795, and API 5L specifications and are not used in standard, line, or pressure pipe applications. In addition, finished and unfinished OCTG are excluded from the scope of these reviews, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line, or pressure applications.

With regard to the excluded products listed above, the Department will not instruct Customs to require end-use certification until such time as petitioner or other interested parties provide to the Department a

reasonable basis to believe or suspect that the products are being used in a covered application. If such information is provided, we will require end-use certification only for the product(s) (or specification(s)) for which evidence is provided that such products are being used in covered applications as described above. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to the A-161 specification is being used in a standard, line or pressure application, we will require end-use certifications for imports of that specification. Normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the merchandise subject to this scope is dispositive.

[FR Doc. 2019-12726 Filed 6-14-19; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-885]

Phosphor Copper From the Republic of Korea: Preliminary Results of 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 Bongsan Co., Ltd. (Bongsan), the sole producer or exporter subject to this administrative review, has not made sales of subject merchandise at less than normal value during the October 14, 2016, through March 31, 2018 period of review (POR). We invite interested parties to comment on these preliminary results.

DATES: Applicable June 17, 2019.

FOR FURTHER INFORMATION CONTACT: Cindy Robinson, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3797.

SUPPLEMENTARY INFORMATION:

Background

Commerce is conducting an administrative review of the

antidumping duty order on phosphor copper from Korea.¹

On December 11, 2018, we postponed the preliminary results of review of review by 120 days until June 10, 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 If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. Accordingly, the revised deadline for the preliminary results is now June 10, 2019.

Scope of the Order

The merchandise subject to the *Order* is phosphor copper and is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7405.00.1000. While the HTSUS number is provided for convenience and customs purposes, the written product description is dispositive. A full description of the scope of the *Order* is contained in the Preliminary Decision Memorandum.⁴

Methodology

Commerce is conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). Export price is calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our preliminary results, see the Preliminary Decision Memorandum. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and

Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and ACCESS is available to all parties in the Central Records Unit, Room B-8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>.

Preliminary Results of the Review

As a result of this review, we preliminarily determine the following weighted-average dumping margin for Bongsan for the period October 14, 2016, through March 31, 2018.

Producer or exporter	Weighted-average dumping margin (percent)
Bongsan Co., Ltd	0.00

Assessment Rate

Upon issuance of the final results of this review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. If the weighted-average dumping margin for Bongsan is not zero or *de minimis* (i.e., less than 0.5 percent), then we will calculate importer-specific *ad valorem* antidumping duty assessment rates based on the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).⁵ If the weighted-average dumping margin for Bongsan is zero or *de minimis* in the final results, or an importer-specific assessment rate is zero or *de minimis* in the final results, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For entries of subject merchandise during the POR produced by Bongsan for which it did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction, consistent with the *Final Modification for Reviews*.⁶

⁵ In these preliminary results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

⁶ *Id.* at 8102.

We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of phosphor copper from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results in the **Federal Register**, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Bongsan Co., Ltd. will be equal to the weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in a completed segment for the most recent period or review; (3) if the exporter is not a firm covered in this review or the original 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 8.43 percent, the all-others rate established in the investigation.⁷ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

We intend to disclose the calculations performed in these preliminary results to parties in this proceeding within five days of the date of publication of this notice.⁸

Pursuant to 19 CFR 351.309(c)(ii), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the date for filing case briefs.⁹ Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument;

⁷ See *Phosphor Copper from the Republic of Korea: Final Affirmative Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances*, 82 FR 12433 (March 3, 2017).

⁸ See 19 CFR 351.224(b).

⁹ See 19 CFR 351.309(d).

¹ See *Phosphor Copper from the Republic of Korea: Antidumping Duty Order*, 82 FR 18893 (April 24, 2017) (*Order*).

² See Memorandum, "Phosphor Copper from The Republic of Korea: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review; 2016/2018," dated December 11, 2018.

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 have been extended by 40 days.

⁴ See the "Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Phosphor Copper from the Republic of Korea; 2016-2018," dated concurrently and hereby adopted by this notice (Preliminary Decision Memorandum).

and (3) a table of authorities.¹⁰ All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the established deadline.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, within 30 days after the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. If a request for a hearing is made, parties will be notified 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.

We intend to issue the final results of this administrative review, including the results of our analysis of each of the issues raised in written briefs, not later than 120 days after the date of publication of this notice in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

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 review period. Failure to comply with this requirement could result in the Secretary'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 these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: June 10, 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

¹⁰ See 19 CFR 351.309(c)(2) and (d)(2); and 19 CFR 351.303 (for general filing requirements).

- A. Comparisons to Normal Value
- B. Date of Sale
- C. Product Comparisons
- D. Export Price
- E. Normal Value
- F. Cost of Production Analysis
- G. Calculation of Normal Value Based on Comparison Market Prices
- H. Currency Conversion
- V. Recommendation

[FR Doc. 2019-12727 Filed 6-14-19; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-017]

Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Amended Final Results of Countervailing Duty Administrative Review; 2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is amending the final results of the countervailing duty administrative review of certain passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (China) to correct a ministerial error. The period of review (POR) is January 1, 2016 through December 31, 2016.

DATES: Applicable June 17, 2019.

FOR FURTHER INFORMATION CONTACT:

Andrew Huston, 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) 482-4261.

SUPPLEMENTARY INFORMATION:

Background

In accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(b)(5), on April 25, 2019, Commerce published its final results of the countervailing duty administrative review of passenger tires from China.¹ On May 6, 2019, Cooper (Kunshan) Tire Co., Ltd. (Cooper) submitted a request to correct a clerical error in the *Final Results*.² No other

¹ See *Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2016*, 84 FR 17382 (April 25, 2019) (*Final Results*).

² See Cooper's Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China/Allegation of A Ministerial Error," dated May 6, 2019 (Cooper Ministerial Comments).

parties submitted ministerial error allegations or comments on Cooper's allegation.

Scope of the Order

The products covered by the order are certain passenger vehicle and light truck tires from the China. A full description of the scope of the order is contained in the Amended Final Decision Memorandum.³

Ministerial Errors

Section 751(h) of the Act and 19 CFR 351.224(f) define a "ministerial error" as an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial. As discussed in the Amended Final Decision Memorandum, Commerce finds that the error alleged by Cooper constitutes a ministerial error within the meaning of 19 CFR 351.224(f).⁴ Specifically, Commerce made an error in the calculation of the benefit to Cooper from the provision of synthetic rubber and butadiene for less than adequate remuneration.

In accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the *Final Results* to correct the ministerial error. Specifically, we are amending the net subsidy rates for Cooper and the non-selected companies under review.⁵ The revised net subsidy rates are provided below.

Amended Final Results

As a result of correcting the ministerial error, we determine that the countervailable subsidy rates for the producers/exporters under review are as follows:

Company	Subsidy rate (percent)
Cooper (Kunshan) Tire Co., Ltd. (Cooper)	15.47
Qingdao Sentury Tire Co. Ltd. (Sentury)	15.75

³ See Memorandum "Administrative Review of the Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Decision Memorandum for Amended Final Results," dated concurrently and hereby adopted by this notice (Amended Final Decision Memorandum) for a full description of the scope of the order.

⁴ *Id.* at 5.

⁵ *Id.* at 5-6. Because we relied on Cooper's and Qingdao Sentury Tire Co. Ltd.'s subsidy rates to calculate the rate for non-selected companies under review, we are revising the rate for non-selected companies under review in these amended final results. See *Final Results* at Appendix II for a list of the non-selected companies under review.

Company	Subsidy rate (percent)
Non-Selected Companies Under Review	15.56

Assessment Rates

Commerce intends to issue assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of these amended final results of review, to liquidate shipments of subject merchandise entered, or withdrawn from warehouse, for consumption, on or after January 1, 2016 through December 31, 2016, at the *ad valorem* rates listed above.

Commerce also intends to instruct CBP to collect cash deposits of estimated countervailing duties, in the amounts shown above for the companies listed above on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after April 25, 2019, the date of publication of the *Final Results*. For all non-reviewed firms, we will instruct CBP to collect cash deposits at the most-recent company specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Disclosure

We intend to disclose the calculations performed for these amended final results to interested parties within five business days of the date of the publication of this notice in accordance with 19 CFR 351.224(b).

We are issuing and publishing these results in accordance with sections 751(h) and 777(i)(1) of the Act, and 19 CFR 351.224(e).

Dated: June 11, 2019.
Jeffrey I. Kessler,
Assistant Secretary for Enforcement and Compliance.
 [FR Doc. 2019-12728 Filed 6-14-19; 8:45 am]
BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Vacancies on the United States-Mexico Energy Business Council

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In 2016, the Governments of the United States and Mexico established the U.S.-Mexico Energy Business Council (the "Council"). This notice announces three membership opportunities for appointment as U.S. representatives to the U.S. Section of the Council for a term ending in June 2020.

DATES: All applications must be received by the Office of North America by 5:00 p.m. Eastern Standard Time (EST) on July 8, 2019.

ADDRESSES: Please submit applications to Leslie Wilson, International Trade Specialist, Office of North America, U.S. Department of Commerce either by email at Leslie.Wilson@trade.gov (preferred method) or by mail to U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 30014, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Leslie Wilson, Office of North America, U.S. Department of Commerce, telephone: (202) 482-0704, email: Leslie.Wilson@trade.gov.

SUPPLEMENTARY INFORMATION: The U.S. Department of Commerce, the U.S. Department of Energy, the Ministry of Economy of the United Mexican States, and the Ministry of Energy of the United Mexican States established the Council in February 2016. The objective of the Council is to bring together representatives of the respective energy industries of the United States and Mexico to discuss issues of mutual interest, particularly ways to strengthen the economic and commercial ties between energy industries in the two countries, and communicating actionable, non-binding recommendations to the U.S. and Mexican Governments.

For more information, please consult the Terms of Reference of the Council (copy and paste link into browser): <https://www.trade.gov/hled/documents/>

Signed%20US-MEX%20Energy%20Business%20Council%20Terms%20(May%202016%20-%20English).pdf.

The Department of Commerce is currently seeking candidates for three membership positions on the U.S. Section of the Council. Each applicant must be a senior representative (*e.g.*, Chief Executive Officer, Vice President, Regional Manager, Senior Director, or holder of a similar position) of a U.S.-owned or controlled individual company, trade association, or private sector organization that is incorporated in and has its main headquarters in the United States and whose activities include a focus on the manufacture, production, commercialization and/or trade in goods and services for the energy industry in Mexico. Each applicant must also be a U.S. citizen, or otherwise legally authorized to work in the United States, and be able to travel to Mexico or locations in the United States to attend Council meetings, as well as U.S. Section and Committee meetings. In addition, the applicant may not be a registered foreign agent under the Foreign Agents Registration Act of 1938, as amended.

Applications for membership in the U.S. Section by eligible individuals will be evaluated on the following criteria:

- A demonstrated commitment by the entity to be represented to the Mexican market, including as applicable either through exports or investment.
- A demonstrated strong interest in Mexico and its economic development.
- The ability to offer to the work of the Council a broad perspective and business experience specific to the energy industry.
- The ability to address cross-cutting issues that affect the entity's entire energy industry sub-sector.
- The ability to dedicate organizational resources to initiate and be responsible for activities in which the Council will be active.

U.S. Section members will also be selected on the basis of who is best qualified to carry out the objectives of the Council to:

- Promote increased two-way investment in the energy industry;
- Promote two-way trade in goods and services produced by and used in the energy industry, including the oil and gas, renewable energy, electricity, nuclear energy, and energy efficiency sub-sectors;
- Promote the development of binational value chains in the production of goods and services in the energy sector;

- Promote the development of modern energy infrastructure and bolster energy efficiency and security;
- Foster an enabling environment for the rapid development, deployment, and integration of new energy industry technologies—including clean renewable energy technologies—into the marketplace;
- Improve competitiveness through innovation and entrepreneurship in the energy industry, to include the promotion of technology exchanges and research partnerships; and
- Partner in skills development to create solutions in training and education to address evolving energy industry workforce needs.

In selecting members of the U.S. Section, the Department will attempt to ensure that the Section represents a cross-section of small, medium-sized and large firms.

U.S. Section members will receive no compensation for their participation in Council-related activities. They shall not be considered as special government employees. Individual U.S. Section members will be responsible for all travel and related expenses associated with their participation in the Council, including attendance at Committee and Section meetings. Only appointed U.S. Section members may participate in Council meetings; Substitutes and alternates may not be designated. U.S. Section members are expected to serve for two-year terms, but may be reappointed.

To apply for membership in the U.S. Section, please submit the following information as instructed in the **ADDRESS** and **DATES** captions above:

- Name(s) and title(s) of the applicant;
- Name and address of the headquarters of the entity that employs the applicant;
- Location of incorporation or establishment;
- Size of the represented entity, in terms of annual sales and number of employees;
- As applicable, the size of the entity's export trade, investment, and nature of operations or interest in Mexico;
- And a brief statement of why the applicant should be considered, including information about the applicant's ability to initiate and be responsible for activities in which the Council will be active.

All applicants will be notified of whether they have been selected once the application window closes and selection of U.S. Section members has been made.

Dated: June 11, 2019.

Geri Word,

Director for the Office of North America.

[FR Doc. 2019–12661 Filed 6–14–19; 8:45 am]

BILLING CODE 3510–HE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Meeting of the Advisory Committee on Commercial Remote Sensing

ACTION: Notice of meeting.

SUMMARY: The Advisory Committee on Commercial Remote Sensing (“ACCRES” or “the Committee”) will meet July 11, 2019.

DATES: The meeting is scheduled as follows: July 11, 2019, 1 p.m.–5:00 p.m.

ADDRESSES: The meeting will be held at the Center for Strategic and International Studies (CSIS)—1616 Rhode Island Avenue, Room 212A/B, NW, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Tahara Dawkins, NOAA/NESDIS/CRSRA, 1335 East-West Highway, G–101, Silver Spring, Maryland 20910; (301) 713–3385 or tahara.dawkins@noaa.gov.

SUPPLEMENTARY INFORMATION: As required by Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2 (FACA) and its implementing regulations, *see* 41 CFR 102–3.150, notice is hereby given of the meeting of ACCRES. ACCRES was established by the Secretary of Commerce (Secretary) on May 21, 2002, to advise the Secretary of Commerce through the Under Secretary of Commerce for Oceans and Atmosphere on matters relating to the U.S. commercial remote sensing space industry and on the National Oceanic and Atmospheric Administration's activities to carry out the responsibilities of the Department of Commerce set forth in the National and Commercial Space Programs Act of 2010 (51 U.S.C. 60101 *et seq.*).

Purpose of the Meeting and Matters To Be Considered

The meeting will be open to the public pursuant to Section 10(a)(1) of the FACA. During the meeting, the Committee will receive updates on NOAA's Commercial Remote Sensing Regulatory Affairs activities and discuss updates to the commercial remote sensing regulatory regime. The Committee will also discuss the New Proposed Rule Making (NPRM) on Commercial Remote Sensing Licensing.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for special accommodations may be directed to Tahara Dawkins, NOAA/NESDIS/CRSRA, 1335 East-West Highway, G–101, Silver Spring, Maryland 20910; (301) 713–3385 or tahara.dawkins@noaa.gov.

Additional Information and Public Comments

In accordance with 41 CFR 102–3.140(b), the meeting room is sufficient to accommodate advisory committee members, agency staff, and a reasonable number of interested members of the public. However, to avoid overcrowding should an unexpected number of members of the public attend the meeting, ACCRES invites interested members of the public to RSVP through the following link: <https://forms.gle/dQ5Qy79eTuXwvk1c6>, or directly to the office of Commercial Remote Sensing Regulatory Affairs at (301) 713–2560, or by email at CRSRA@noaa.gov, by July 8, 2019. Any member of the public wishing further information concerning the meeting or who wishes to submit oral or written comments should contact Tahara Dawkins, Designated Federal Officer for ACCRES, NOAA/NESDIS/CRSRA, 1335 East-West Highway, G–101, Silver Spring, Maryland 20910; (301) 713–3385 or tahara.dawkins@noaa.gov. Copies of the draft meeting agenda will be posted on the Commercial Remote Sensing Regulatory Affairs Office at <https://www.nesdis.noaa.gov/CRSRA/accresMeetings.html>.

ACCRES expects that public statements presented at its meetings will not be repetitive of previously-submitted oral or written statements. In general, each individual or group making an oral presentation may be limited to a total time of five minutes. Written comments sent to NOAA/NESDIS/CRSRA on or before June 29, 2019 will be provided to Committee members in advance of the meeting. Comments received too close to the meeting date will normally be provided to Committee members at the meeting. All questions and comments about the proposed regulations must be directed to the **Federal Register** website for public comments <https://www.federalregister.gov/documents/2019/05/14/2019-09320/licensing-of-private-remote-sensing-space-systems>.

Stephen M. Volz,

Assistant Administrator for Satellite and Information Services.

[FR Doc. 2019–12732 Filed 6–14–19; 8:45 am]

BILLING CODE 3510–HR–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648–XW003]

Pacific Whiting; Advisory Panel; Joint Management Committee

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

ACTION: Notice; call for nominations.

SUMMARY: NMFS is soliciting nominations for appointments to the United States Advisory Panel (AP) and the Joint Management Committee (JMC) established in the Agreement between the Government of the United States of America and the Government of Canada on Pacific Hake/Whiting (Pacific Whiting Treaty). Nominations are being sought to fill six positions on the AP beginning on September 16, 2019, and one position on the JMC starting November 1, 2019. Terms are 4 years, and appointees will be eligible for reappointment at the expiration of the terms.

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

ADDRESSES: You may submit nominations by any of the following methods:

- *Email:* whiting.nominations.wcr@noaa.gov.

- *Fax:* 206–526–6736, Attn: Frank Lockhart.

- *Mail:* Barry Thom, Regional Administrator, c/o Frank Lockhart, Senior Policy Advisor, West Coast Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070.

FOR FURTHER INFORMATION CONTACT: Frank Lockhart, (206) 526–6142 or Miako Ushio, (206) 526–4644.

SUPPLEMENTARY INFORMATION:**Background***Pacific Whiting Treaty Committees*

The Pacific Whiting Act of 2006 (Pacific Whiting Act) (16 U.S.C. 7001–10) implements the 2003 Agreement between the Government of the United States of America and the Government of Canada on Pacific Hake/Whiting. Among other provisions, the Pacific Whiting Act provides for the establishment of a JMC and AP.

The JMC reviews the advice of two scientific bodies and the AP, and recommends to the Parties the coast-wide total allowable catch of Pacific whiting each year. Four individuals represent the United States on the JMC;

one official from NOAA, one member of the Pacific Fishery Management Council, one representative of the treaty Indian tribes with treaty fishing rights to Pacific whiting, and one representative from the commercial fishing sector. NMFS is soliciting nominations for the representative of the commercial sector of the whiting fishing industry concerned with the offshore whiting resource (16 U.S.C. 7001(a)(1)(D))) through this notice.

The AP advises the JMC on bilateral Pacific whiting management issues. Eight individuals represent the United States on the AP, and nominations for six of those individuals (*id.* at § 7005) are solicited through this notice.

Members appointed to the U.S. sections of the AP and JMC will be reimbursed for necessary travel expenses in accordance with Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of Title 5. (*Id.* at § 7008). NMFS anticipates that 1–2 meetings of the AP and of the JMC will be held annually, and these meetings will be held in the United States or Canada. AP and JMC members will need a valid U.S. passport.

The Pacific Whiting Act of 2006 also states that while performing their appointed duties, members “other than officers or employees of the United States Government, shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28.” (*Id.*)

Information on the Pacific Whiting Treaty, including current committee members can be found at: www.westcoast.fisheries.noaa.gov/fisheries/management/whiting/pacific_whiting_treaty.html.

Nominations

Nomination packages for appointments should include:

- (1) The name of the applicant or nominee, position they are being nominated for and a description of his/her interest in Pacific whiting; and

- (2) A statement of background and/or description of how the following qualifications are met.

Advisory Panel Qualifications

AP member nominees must be knowledgeable or experienced in the harvesting, processing, marketing, management, conservation, or research of the offshore Pacific whiting resource; and must not be employees of the United States government.

Joint Management Committee Qualifications

The JMC nominee must be from the commercial sector of the Pacific whiting fishing industry concerned with the offshore Pacific whiting resource, and must be knowledgeable or experienced concerning the offshore whiting resource.

Authority: 16 U.S.C. 7001 *et seq.*

Dated: June 12, 2019.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019–12756 Filed 6–14–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

RIN 0648–XH064

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 62 Assessment Webinar II for Gulf of Mexico gray triggerfish.

SUMMARY: The SEDAR 62 stock assessment process for Gulf of Mexico gray triggerfish will consist of an In-person Workshop, and a series of data and assessment webinars. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 62 Assessment Webinar II will be held July 17, 2019, from 2 p.m. until 4 p.m., Eastern Standard Time.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: Julie.neer@safmc.net.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf

States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the Data Webinar are as follows:

1. Using datasets and initial assessment analysis recommended from the In-person workshop, panelists will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions.
2. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: June 12, 2019.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019-12689 Filed 6-14-19; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XH063

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 61 Assessment Webinar VI for Gulf of Mexico red grouper.

SUMMARY: The SEDAR 61 stock assessment process for Gulf of Mexico red grouper will consist of an In-person Workshop, and a series of data and assessment webinars. See

SUPPLEMENTARY INFORMATION.

DATES: The SEDAR 61 Assessment Webinar VI will be held July 16, 2019, from 1 p.m. until 3 p.m., Eastern Time.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571-4366; email: Julie.neer@safmc.net

SUPPLEMENTARY INFORMATION:

The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions

have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the Assessment Webinar are as follows:

1. Using datasets and initial assessment analysis recommended from the in-person workshop, panelists will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions.
2. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: June 12, 2019.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2019-12688 Filed 6-14-19; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

RIN 0648-POL-A001

Meeting of the Marine Fisheries Advisory Committee

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

ACTION: Notice of open public meeting.

SUMMARY: This notice sets forth the proposed schedule and agenda of a forthcoming meeting of the Marine Fisheries Advisory Committee (MAFAC). The members will discuss and approve comments and recommendations on the draft NOAA Strategic Aquaculture Science Plan.

DATES: The meeting will be July 1, 2019, 3:00–4:30 p.m., Eastern Time.

ADDRESSES: Meeting is by conference call.

FOR FURTHER INFORMATION CONTACT: Heidi Lovett; NOAA Fisheries Office of Policy; (301) 427-8034; email: Heidi.Lovett@noaa.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a meeting of MAFAC. The MAFAC was established by the Secretary of Commerce (Secretary), and, since 1971, advises the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. The MAFAC charter and summaries of prior MAFAC meetings are located online at <https://www.fisheries.noaa.gov/topic/>

partners#marine-fisheries-advisory-committee-.

Matters To Be Considered

The Committee is convening to discuss and approve comments on the Draft NOAA Strategic Aquaculture Science Plan. Other administrative matters may be considered. This date, time, and agenda are subject to change.

Time and Date

The meeting is scheduled for July 1, 2019, 3:00–4:30 p.m., Eastern Time by conference call and webinar. Access information for the public will be posted at <https://www.fisheries.noaa.gov/national/partners/marine-fisheries-advisory-committee-meeting-materials-and-summaries> by June 21, 2019.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to Heidi Lovett, (301) 427-8034 by June 24, 2019.

Dated: June 11, 2019.

Jennifer L. Lukens,

Federal Program Officer, Marine Fisheries Advisory Committee, National Marine Fisheries Service.

[FR Doc. 2019-12702 Filed 6-14-19; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF DEFENSE**Department of the Army****Change to the Freight Carrier Registration Program (FCRP) Open Season**

AGENCY: Department of the Army, DOD.
ACTION: Notice.

SUMMARY: The Military Surface Deployment and Distribution Command (SDDC) will conduct an Open Season, effective 3 Jun 19 thru 29 Feb 20 (Applications will not be accepted prior to 3 Jun 19). This will affect domestic motor Transportation Service Providers (TSPs) only. TSPs must be registered in the Federal Motor Carrier Safety Administration (FMSCA) and have valid Department of Transportation (DOT) authority for three (3) consecutive years (without a break) prior to 3 Jun 19. New TSPs will indicate their small business status via the Freight Carrier

Registration Program (FCRP) during registration. Registration for other modes will continue to be accepted (barge, ocean, pipeline, and international carriers).

ADDRESSES: Submit comments to Military Surface Deployment and Distribution Command, ATTN: AMSSD-OPM, 1 Soldier Way, Scott AFB, IL 62225-5006. Request for additional information may be sent by email to: usarmy.scott.sddc.mbx.carrier-registrations@mail.mil.

FOR FURTHER INFORMATION CONTACT: FCRP Team, (618) 220-6470.

SUPPLEMENTARY INFORMATION:

References: Military Freight Traffic Unified Rules Publication-1 (MFTURP-1).

Miscellaneous: This announcement can be accessed via the SDDC website at: <http://www.sddc.army.mil/>.

Jessica H. Snyder,

Chief, Domestic Movement Support.

[FR Doc. 2019-12733 Filed 6-14-19; 8:45 am]

BILLING CODE 5001-03-P

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Transmittal No. 19-14]

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 19-14 with attached Policy Justification and Sensitivity of Technology.

Dated: June 11, 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 22202-6408

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

MAY 09 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. 19-14 concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Qatar for defense articles and services estimated to cost \$3.0 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. 19-14

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 Qatar

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$1.90 billion
Other	\$1.10 billion

TOTAL	\$3.00 billion
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(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Twenty-four (24) AH-64E Apache Attack Helicopters
Fifty-two (52) T700-GE-701D Engines (2 per aircraft, 4 spares)
Twenty-six (26) AN/ASQ-170 Modernized Target Acquisition and

Designation Sight (MTADS) (1 per aircraft, 2 spares)
Twenty-six (26) AN/AAQ-11 Modernized Pilot Night Vision Sensors (1 per aircraft, 2 spares)
Eight (8) AN/APG-78 Fire Control Radars (FCR) with Radar Electronics Unit (LONGBOW component)
Eight (8) AN/APR-48 Modernized-Radar Frequency Interferometers (MRFI)
Twenty-nine (29) AN/AAR-57 Common Missile Warning System (CMWS) (1 per aircraft, 5 spares)
Fifty-eight (58) Embedded Global Positioning Systems with Inertial Navigation (EGI) (2 per aircraft, 10 spares)
Two thousand five hundred (2,500) AGM-114R Hellfire Missiles
Twenty-five (25) Hellfire Captive Air Training Missiles (CATM) (1 per aircraft, 1 spare)
Non-MDE: Also included are twenty-eight (28) M230 30mm automatic chain

guns (1 per aircraft, 4 spares), AN/AVR-2B laser detecting sets, AN/APR-39 Radar Signal Detecting Sets, AN/AVS-6 Night Vision Goggles, M299 Hellfire missile launchers, 2.75 inch Hydra Rockets, 30mm cartridges, CCU-44 impulse cartridges, M206 and 211 countermeasure flares, M230 automatic guns and associated components, 2.75 inch rocket launcher tubes, AN/ARC-231 and AN/ARC-201D radios with associated components, AN/APX-123 transponders, image intensifiers, MUMT2i systems, AN/ARN-153 tactical airborne navigation systems, chaff, spare an repair parts, support equipment, 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:* Army (QA-B-WAG)

(v) *Prior Related Cases, if any:* QA-B-WYX, QA-B-OAM, QA-B-HAA
 (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 9, 2019

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Qatar—AH-64E Apache Helicopters with Spare Parts and Related Equipment

The Government of Qatar has requested to buy twenty-four (24) AH-64E Apache Attack helicopters; fifty-two (52) T700-GE-701D engines (2 per aircraft, 4 spares); twenty-six (26) AN/ASQ-170 Modernized Target Acquisition and Designation Sight (MTADS) (1 per aircraft, 2 spares); twenty-six (26) AN/AAQ-11 Modernized Pilot Night Vision Sensors (1 per aircraft, 2 spare); eight (8) AN/APG-78 Fire Control Radars (FCR) with Radar Electronics Unit (LONGBOW component); eight (8) AN/APR-48 Modernized-Radar Frequency Interferometers (MRFI); twenty-nine (29) AN/AAR-57 Common Missile Warning System (CMWS) (1 per aircraft, 5 spares); fifty-eight (58) Embedded Global Positioning Systems with Inertial Navigation (EGI) (2 per aircraft, 10 spares); two thousand five hundred (2,500) AGM-114R Hellfire missiles; and twenty-five (25) Hellfire Captive Air Training Missiles (CATM) (1 per aircraft, 1 spare). Also included are twenty-eight (28) 30mm automatic chain guns (1 per aircraft, 4 spares), AN/AVR-2B laser detecting sets, AN/APR-39 Radar Signal Detecting Sets, AN/AVS-6 Night Vision Goggles, M299 Hellfire missile launchers, 2.75 inch Hydra Rockets, 30mm cartridges, CCU-44 impulse cartridges, M206 and 211 countermeasure flares, M230 automatic guns and associated components, 2.75 inch rocket launcher tubes, AN/ARC-231 and AN/ARC-201D radios with associated components, AN/APX-123 transponders, image intensifiers, MUMT2i systems, AN/ARN-153 tactical airborne navigation systems, chaff, spare air repair parts, support equipment, 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 estimated cost is \$3.0 billion.

This proposed sale will support the foreign policy and national security of

the United States by helping to improve the security of a friendly country that continues to be an important force for political and economic progress in the Middle East. Qatar is host to the U.S. Central Command forces and serves as a critical forward-deployed location in the region. The acquisition of these helicopters will allow for integration with U.S. forces for training exercises, which contributes to regional security and interoperability.

The proposed sale of the AH-64E Apache helicopters will supplement the Qatar Emiri Air Force's previous procurement of twenty-four (24) AH-64Es, which are capable of meeting its requirements for close air support, armed reconnaissance, and anti-tank warfare missions. The helicopters will provide a long-term defensive and offensive capability to the Qatar peninsula as well as enhance the protection of key oil and gas infrastructure and platforms. Qatar 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 prime contractors will be The Boeing Company, Mesa, Arizona; Lockheed Martin Corporation, Orlando, Florida; General Electric, Cincinnati, Ohio; Lockheed Martin Mission Systems and Sensors, Owego, New York; Longbow Limited Liability Corporation, Orlando, Florida; Thales Corporation, Paris, France; and Raytheon Corporation. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of three (3) U.S. Government and five (5) contractor representatives to Qatar to support delivery of the Apache helicopters and provide support and equipment familiarization. In addition, Qatar has expressed an interest in expanding their planned Technical Assistance Fielding Team for additional in-country pilot and maintenance training to support this additional quantity of aircraft. To support the requirement a team of twenty (20) personnel (up to three military team members and 17 contractors) would be deployed to Qatar for approximately three years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 19-14

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-64E Apache Attack Helicopter weapon system contains communications and target identification equipment, navigation equipment, aircraft survivability equipment, displays, and sensors. The airframe itself does not contain sensitive technology; however, the equipment listed below will be either installed on the aircraft or included in the sale and carries technology transfer significance. The highest level of information that could be disclosed through the sale of the Apache in the configuration proposed for sale to Qatar is SECRET.

2. The AN/APG-78 Fire Control Radar (FCR) is an active, low probability of intercept, millimeter-wave radar, combined with the AN/APR-48, a passive Radar Frequency Interferometer (RFI) mounted on top of the helicopter mast. The FCR Targeting Mode detects, locates, classifies and prioritizes stationary or moving armored vehicles, tanks and mobile air defense systems as well as hovering and moving helicopters and fixed wing aircraft in normal flight. The highest level of information associated with the FCR and RFI is classified SECRET.

3. The AN/ASQ-170, Modernized Target Acquisition and Designation Sight (AN/AAQ-11), Modernized Pilot Night Vision Sensor (M-TADS/M-PNVS) is an enhanced version of its predecessor. It provides second generation day, night, and limited adverse weather target information, as well as night navigation capabilities. The M-PNVS provides second generation thermal imaging that permits safer nap-of-the-earth flight to, from, and within the battle area. The M-TADS provides the co-pilot gunner with improved search, deletion, recognition, and designation by means of Direct View Optics (DVO), television, and second generation Forward Looking Infrared (FLIR) sighting systems that may be used singularly or in combinations. M-TAD/M-PNVS hardware is UNCLASSIFIED. The technical manuals for authorized maintenance levels are UNCLASSIFIED. Specific information related to effective system performance parameters (e.g. range, accuracy, etc.) is classified CONFIDENTIAL.

4. The AN/AAR-57(V)7, Common Missile Warning System detects threat

missiles in flight, evaluates potential false alarms, declares validity of threat, and selects appropriate Infrared Countermeasures (IRCM). It includes Electro Optical Missile Sensors, Electronic Control Unit (ECU), Sequencer, and the Improved Countermeasures Dispenser (ICMD) that consists of the Dispenser Assembly and the Payload Module. The ICMD dispenses decoy expendable objects (chaff, flares, etc.) to confuse threat radar devices. In-country repair capability will not be provided. Reverse engineering is not a major concern. The hardware is UNCLASSIFIED when the software is not loaded. The software is classified SECRET.

5. The AN/APR-39, Radar Signal Detecting Set is designed to operate on rotary wing and slow moving fixed wing aircraft to detect, categorize, and prioritize pulse radio frequency emitter illuminating the host platform to allow appropriate countermeasures. This is the 1553 data bus compatible configuration. In-country repair capability will not be provided. Hardware is UNCLASSIFIED when the software is not loaded. The software is CONFIDENTIAL. The system can be programmed with threat data provided by the purchasing country.

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 laser designators, rangefinders, and beamrider missile guidance systems. The AN/AVR-2B uses the existing AN/APR-39A/D interface for control status and crew warning. The threat information is processed by the AN/APR-39 RSDS, displayed on the aircraft multi-function display and announced by the AN/APR-39 RSDS via the aircraft Inter Communication System. In-country repair capability will not be provided. Reverse engineering is not a major concern. The hardware is classified CONFIDENTIAL; releasable technical manuals for operation and maintenance are classified SECRET.

7. Embedded Global Positioning System (GPS)/Inertial Navigation System (INS). GPS/INS utilize GPS satellite signals to correct or calibrate a solution from an INS. Inertial navigation systems usually can provide an accurate solution only for short duration. The INS accelerometers produce an unknown bias signal that appears as a

genuine specific force. The EGI is Selective Available Anti-Spoofing Module (SAASM) based on navigation platform that combines an inertia sensor for position information and is UNCLASSIFIED. The GPS crypto variables need the highest GPS accuracy and are classified up to SECRET.

8. The AGM-114R Hellfire missile is precision strike, Semi-Active Laser (SAL) guided missile and is the principle air to ground weapon for the AH-64 Apache. The SAL Hellfire missile is guided by laser energy reflected off the target. It has three warhead variants: a dual warhead, shape-charge, high explosive anti-tank capability for armored targets, a blast fragmentation warhead for urban patrol boat and other soft targets and metal augmented charge warhead for urban structures. AGM-114R allows selection of warhead effects corresponding to a specific target type. Hardware for the AGM-114R is UNCLASSIFIED.

9. The highest level for release of the AGM-114R Hellfire III missile 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, countermeasures, vulnerability/susceptibility analyses, and threat definitions are classified SECRET or CONFIDENTIAL.

10. The M211-flare is a countermeasure decoy in a 1" x 1" x 8" form factor in an aluminum case cartridge. It consists of case, piston, special material payload foils, and end cap. The special material is a pyrophoric metal (iron) foil that reacts with oxygen to generate infrared energy. The M211 decoys are dispersed from an aircraft to be used as a decoy in combination with the currently fielded M206 and M212 countermeasure flares to protect against advanced air-to-air and surface-to-air missile threats. The hardware is Unclassified and releasable technical manuals for operation and maintenance are classified SECRET.

11. The M36E9 Captive Air Training Missile (CATM) is a Hellfire training missile (Non-NATO) that consists of a functional guidance section coupled to an inert missile bus. The missile has an operational semi-active laser seeker that can search for and lock-on to laser

designated targets for pilot training, but it does not have a warhead or propulsion section and cannot be launched.

12. 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.

13. A determination has been made that Qatar 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.

14. All defense articles and services listed in this transmittal are authorized for release and export to the Government of Qatar.

[FR Doc. 2019-12665 Filed 6-14-19; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 18-20]

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 18-20 with attached Policy Justification and Sensitivity of Technology.

Dated: June 11, 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 03 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. 18-20, concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Bahrain for defense articles and services estimated to cost \$750 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. 18-20

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 Bahrain

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$400 million
Other	\$350 million
TOTAL	\$750 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

- Thirty-two (32) AIM-120C-7 AMRAAM Missiles
- One (1) AIM-120C-7 AMRAAM Guidance Section
- Thirty-two (32) AIM-9X Missiles

- Twenty (20) AGM-84 Block II Harpoon Missiles
- Two (2) ATM-84L-1 Block II Harpoon Missiles
- Forty (40) AGM-154 Joint Standoff Weapon (JSOW) All-Up-Rounds
- Fifty (50) AGM-88B High-Speed Anti-Radiation Missiles (HARM)
- Four (4) AGM-88 HARM Training Missiles
- One hundred (100) GBU-39 250 lb Small Diameter Bomb (SDB-1) All-Up-Rounds
- Four hundred (400) MAU-209 C/B Computer Control Groups (GBU-10, -12)
- Eighty (80) MAU-210 Enhanced Computer Control Groups (GBU-49, -50)
- Three hundred forty (340) MXU-650 Air Foil Group (GBU-12, -49)
- One hundred forty (140) MXU-651 Air Foil Groups (GBU-10, -50)

- Seventy (70) KMU-557 GBU-31 Tail Kits (GBU-31 JDAM, GBU-56 JDAM)
- One hundred twenty (120) KMU-572 Tail Kits (GBU-38, -54)
- One hundred (100) DSU-38 Proximity Sensors (GBU-54)
- Four hundred sixty-two (462) MK-82 or BLU-111 500 lb Bomb Bodies (Supporting GBU-12, GBU-38, GBU-49, GBU-54)
- Two hundred ten (210) BLU-109/BLU-117 or MK-84 2000 lb Bomb Bodies (Supporting GBU-10, GBU-31, GBU-50, GBU-56)
- Ten (10) Practice BLU-109/BLU-117
- Six hundred seventy (670) FMU-152 Fuses (supporting GBU-10, -12, -31, -38, -49, -50, -54, & -56)
- Non-MDE:* Also included are LAU-118 launchers; BRU-61 racks; general purpose Air Foil Groups; tactical training rounds; combat arms training and Maintenance Assets; nose support

cups; Swivel/Link attachments; DSU-38/40/42 proximity sensors; Repair and Return services; studies and surveys; weapons system support and test equipment; publications and technical documentation; Alternate Mission Equipment (AME); mission system spares and munitions spare parts; software maintenance and support; missile support and test equipment; common munitions bit/reprogramming equipment; missile and munitions containers; personnel training and training equipment; site surveys; U.S. Government/Contractor technical, engineering, and logistical support; and other related elements of logistics and program support.

(iv) *Military Department: Air Force (BA-D-YAF)*

(v) *Prior Related Cases, if any: BA-D-SAC, BA-D-YAE, BA-D-YBI*

(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

Bahrain—Weapons to Support F-16 Block 70/F-16V Aircraft Fleet

The Government of Bahrain has requested to buy thirty-two (32) AIM-120C-7 AMRAAM missiles; one (1) AIM-120C-7 AMRAAM guidance section; thirty-two (32) AIM-9X missiles; twenty (20) AGM-84 Block II Harpoon missiles; two (2) ATM-84L-1 Block II Harpoon missiles; forty (40) AGM-154 Joint Standoff Weapon (JSOW) All-Up-Rounds; fifty (50) AGM-88B High-Speed Anti-Radiation Missiles (HARM); four (4) AGM-88 HARM training missiles; one hundred (100) GBU-39 250 lb Small Diameter Bomb (SDB-1) All-Up-Rounds; four hundred (400) MAU-209 C/B Computer Control Groups (GBU-10, -12); eighty (80) MAU-210 Enhanced Computer Control Groups (GBU-49, -50); three hundred forty (340) MXU-650 Air Foil Group (GBU-12, -49); one hundred forty (140) MXU-651 Air Foil Groups (GBU-10, -50); seventy (70) KMU-557 GBU-31 tail kits (GBU-31 JDAM, GBU-56 JDAM); one hundred twenty (120) KMU-572 tail kits (GBU-38, -54); one hundred (100) DSU-38 proximity sensors (GBU-54); four hundred sixty-two (462) MK-82 or BLU-111 500 lb Bomb Bodies (Supporting GBU-12, GBU-38, GBU-49, GBU-54); two hundred ten (210) BLU-109/BLU-117 or MK-84 2000 lb Bomb Bodies;

(Supporting GBU-10, GBU-31, GBU-50, GBU-56); ten (10) practice BLU-109/BLU-117; six hundred seventy (670) FMU-152 fuses (supporting GBU-10, -12, -31, -38; -49, -50, -54, & -56). Also included are LAU-118 launchers; BRU-61 racks; general purpose Air Foil Groups; tactical training rounds; combat arms training and Maintenance Assets; nose support cups; Swivel/Link attachments; DSU-38/40/42 proximity sensors; Repair and Return services; studies and surveys; weapons system support and test equipment; publications and technical documentation; Alternate Mission Equipment (AME); mission system spares and munitions spare parts; software maintenance and support; missile support and test equipment; common munitions bit/reprogramming equipment; missile and munitions containers; personnel training and training equipment; site surveys; U.S. Government/Contractor technical, engineering, and logistical support; and other related elements of logistics and program support. The estimated cost is \$750 million.

This proposed sale will support the foreign policy and national security objectives of the United States by helping to improve the security of a major non-NATO ally which is an important security partner in the region. Our mutual defense interests anchor our relationship and the Royal Bahraini Air Force (RBAF) plays a significant role in Bahrain's defense.

The proposed sale improves Bahrain's ability to meet current and future threats. Bahrain will use these capabilities as a deterrent to regional threats and to strengthen its homeland defense. These weapons support the new procurement of F-16 Block 70 and upgrades of existing F-16V aircraft, providing an increase in the capability of existing aircraft to sustain operations, meet training requirements, and support transition training for pilots to the upgraded aircraft. This proposed sale and upgrade will improve interoperability with U.S. forces and other regional allies. Bahrain will have no difficulty absorbing this equipment into its armed forces.

The proposed sale will not alter the basic military balance in the region.

The principal contractors for this effort will be Lockheed Martin Aeronautics Company, Fort Worth, TX; Raytheon Missile Systems, Tucson, AZ; and Boeing Corporation, Chicago, IL. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of at least

two (2) additional U.S. Government representatives to Bahrain.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 18–20

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. Sensitive and/or classified (up to SECRET) elements include hardware, accessories, components, and associated software for the AIM-120C-7, AIM-9X, AGM-88B, AGM-84, AGM-154, GBU-10/12, GBU-31/38, GBU-49/50/54/56, and GBU-39. 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.

2. 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 micro-miniature solid-state electronics. The missile employs active radar target tracking, proportional navigation guidance, and active Radio Frequency target detection. It can be launched day or night, in any weather, and increases pilot survivability by allowing the pilot to disengage after missile launch and engage other targets. AMRAAM capabilities include lookdown/shutdown, multiple launches against multiple targets, resistance to electronic countermeasures, and interception of high- and low-flying maneuvering targets. The AMRAAM all up round is classified CONFIDENTIAL, major components and subsystems range from UNCLASSIFIED to CONFIDENTIAL, and technical data and other documentation are classified up to SECRET.

3. AIM-9X Sidewinder missile is an air-to-air guided missile that employs a passive infrared (IR) target acquisition system that features digital technology and micro-miniature solid-state electronics. The AIM-9X tactical and Captive Air Training Missile guidance units are subsets of the overall missile and were recently designated as MDE. The AIM-9X is CONFIDENTIAL. Major components and subsystems range from UNCLASSIFIED to CONFIDENTIAL,

and technical data and other documentation are classified up to SECRET. The overall system classification is SECRET.

The AIM-9X is launched from the aircraft using a LAU-129 guided missile launcher (currently in country inventory). The LAU-129 provides mechanical and electrical interface between missile and aircraft. The LAU-129 system is UNCLASSIFIED.

4. AGM-88B High-Speed Anti-Radiation Missiles (HARM) is an air-to-ground missile designed to destroy or suppress enemy radars used for air defense. HARM has wide frequency coverage, is target reprogrammable in flight, and has a reprogrammable threat library. Hardware and software for the system is classified SECRET and ballistics data is CONFIDENTIAL. The overall system classification is SECRET.

The AGM-88 is launched from the aircraft using a LAU-118A guided missile launcher. The LAU-118A provides mechanical and electrical interface between missile and aircraft. The LAU-118A system is UNCLASSIFIED.

5. GBU-10/12: 2000 lb (GBU-10) and 500 lb (GBU-12) Paveway II (PW-II) laser guided bombs. The PW-II is a maneuverable, free-fall weapon that guides on laser energy reflected off of the target. The PW-II is delivered like a normal general purpose warhead and the laser guidance guides the weapon into the target. Laser designation for the weapon can be provided by a variety of laser target designators. The PW-II consists of a laser guidance kit, a computer control group and a warhead specific air foil group, that attach to the nose and tail of Mk 84, Mk 82 bomb bodies. The weapon components are UNCLASSIFIED. Some technical data and vulnerabilities/countermeasures are classified up to SECRET.

a. The GBU-10: This is a 2000 lb (BLU-117 B/B or Mk 84) General Purpose (GP) guided bomb fitted with the MXU-651 airfoil and the MAU-169 or MAU-209 computer control group to guide to its laser-designated target.

b. The GBU-12: This is a 500 lb (BLU-111/B or Mk-82) guided bomb fitted with the MXU-650 airfoil and the MAU-169 or MAU 209 computer control group to guide to its laser-designated target.

6. GBU-49 and GBU-50 are 500 lb/2000 lb Enhanced Paveway II (EP-II) dual mode laser and GPS guided munitions respectively. The GBU-49/50 uses airfoil groups similar to those used on the GBU-12 and GBU-10 for inflight maneuverability, and uses a MAU-210 Enhanced Computer Control Group. The "enhanced" component is the addition

of GPS guidance to the laser seeker. This dual-mode allows the weapon to operate in all-weather conditions. Weapons components are UNCLASSIFIED.

Technical data and countermeasures/vulnerabilities are SECRET. The overall system classification is SECRET.

7. GBU-31 and GBU-38 2000 lb/500 lb Joint Direct Attack Munitions (JDAM) is a guidance kit that converts existing unguided free-fall bombs into precision-guided munitions. By adding a new tail section containing Inertial Navigation System (INS) guidance/Global Positioning System (GPS) guidance to existing inventories of BLU-109, BLU-111 and BLU-117 or Mk-84 and Mk-82 bombs, the cost effective JDAM provides 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 and all of its components are UNCLASSIFIED; technical data for JDAM is classified up to SECRET.

8. GBU-54/56 are the 500 lb/2000 lb Laser JDAM. These weapons use the DSU-38/B/DSU-40/42 laser sensor respectively and use both Global Position System aided inertial navigation and/or laser guidance to execute threat targets. The laser sensor enhances standard JDAM's reactive target capability by allowing rapid prosecution of fixed targets with large initial target location errors (TLE). The laser sensor also provides the additional capability to engage mobile targets. The addition of the DSU-38 laser sensor combined with additional cabling and mounting hardware turns a GBU-38 JDAM into a GBU-54 Laser JDAM. The addition of the DSU-40/42 laser sensor combined with additional cabling and mounting hardware turns a GBU-31 JDAM into a GBU-56 Laser JDAM. Weapons components are UNCLASSIFIED. Technical data and countermeasures/vulnerabilities are SECRET. The overall system classification is SECRET.

9. GBU-39 Small Diameter Bomb (SDB-1): The GBU-39 is a 250 lb class precision guided munition that allows 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, with a significant standoff range. Aircraft are able to carry four SDB-1s in place of one 2000 lb bomb. The SDB-1 is equipped with a GPS-aided inertial navigation system to attack fixed, stationary targets such as fuel depots and bunkers. The SDB-1 and all of its components are

UNCLASSIFIED; technical data is classified up to SECRET.

10. The AGM-154 Joint Standoff Weapon (JSOW) is a family of low-cost standoff weapons that are modular in design and incorporate either a sub-munition or a unitary warhead. Potential targets for JSOW range from soft targets, such as troop concentrations, to hardened point targets like bunkers. The AGM-154C is a penetrator weapon that carries a BROACH warhead and pay load. The AGM-154 hardware, software and maintenance data is UNCLASSIFIED. Vulnerabilities and countermeasures are classified up to SECRET. Overall system classification is SECRET.

11. The AGM-84L-1 Harpoon provides a day, night, and adverse weather, standoff air-to-surface capability. Harpoon Block II is a follow on to the Harpoon missile, which is no longer in production. Harpoon Block II is an effective Anti-Surface Warfare missile. The AGM-84L-1 Harpoon incorporates components, software, and technical design information that are considered sensitive. The following Harpoon components being conveyed by the proposed sale that are considered sensitive and are classified CONFIDENTIAL include: IIR seeker, INS, OPP software and, missile operational characteristics and performance data. The overall system classification is SECRET.

12. Software, hardware, and other data/information, which is classified or sensitive, is reviewed prior to release to protect system vulnerabilities, design data, and performance parameters. Some end-item hardware, software, and other data identified above are classified at the CONFIDENTIAL and SECRET level. Potential compromise of these systems is controlled through management of the basic software programs of highly sensitive systems and software-controlled weapon systems on a case-by-case basis.

13. 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.

14. A determination has been made that Bahrain can provide substantially the same degree of protection of this technology as the U.S. Government. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification. Moreover, the benefits to be derived from this sale, as outlined in the Policy

Justification, outweigh the potential damage that could result if the sensitive technology were revealed to unauthorized persons.

15. All defense articles and services listed in this transmittal are authorized for release and export to the Government of Bahrain.

[FR Doc. 2019-12662 Filed 6-14-19; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 19-26]

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 19-26 with attached Policy Justification and Sensitivity of Technology.

Dated: June 11, 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 22202-6408

MAY 16 2019

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
11-209, 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. 19-26 concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Republic of Korea for defense articles and services estimated to cost \$313.9 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,

[Signature]
Charles W. Hoopes
Lieutenant General, USA
Director

Enclosures:

- 1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001-06-C

Transmittal No. 19-26

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: Republic of Korea
(ii) Total Estimated Value:

Table with 2 columns: Description and Value. Rows include Major Defense Equipment (\$292.4 million), Other (\$21.5 million), and TOTAL (\$313.9 million).

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: Major Defense Equipment (MDE):

Up to ninety-four (94) Rounds of SM-2 Block IIIB Standard Missiles
Twelve (12) MK 97 MOD 0 Guidance Sections for SM-2 Block IIIB

Non-MDE: Also included is technical assistance; training and training equipment; publication and technical data; and related logistics support, and other

related elements of logistics and program support.

(iv) *Military Department*: Navy (KS-P-AMO and KS-P-AMR)

(v) *Prior Related Cases, if any*: KS-P-AHU, KS-P-AJA, KS-P-AJX, KS-P-ALM

(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 Annex Attached

(viii) *Date Report Delivered to Congress*: May 16, 2019

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Korea—SM-2 Block IIIB

The Republic of Korea (ROK) has requested to buy up to ninety-four (94) rounds of SM-2 Block IIIB Standard Missiles and twelve (12) MK 97 MOD 0 Guidance Sections for SM-2 Block IIIB. Also included is technical assistance: training and training equipment; publication and technical data; and related logistics support, and other related elements of logistics and program support. The total estimated program cost is \$313.9 million.

This proposed sale will support the foreign policy and national security objectives of the United States by meeting the legitimate security and defense needs of one of the closest allies in the INDOPACOM Theater. The Republic of Korea is one of the major political and economic powers in East Asia and the Western Pacific and a key partner of the United States in ensuring peace and stability in that region.

The ROK Navy intends to use the SM-2 Block IIIB to supplement its existing inventory. The proposed sale will provide a defensive capability while enhancing interoperability with U.S. and other allied forces. The Republic of Korea will have no difficulty absorbing these additional missiles into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be the Raytheon Missile Systems Company, Tucson, Arizona. There are no known offset agreements proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the Purchaser and the prime contractor.

Implementation of the proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to the ROK. However, U.S. Government or contractor personnel in-country visits will be required on a temporary basis in conjunction with program technical oversight and support requirements.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 19–26

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 SM-2 Block IIIB Standard Missile consists of a Guidance Unit, Dual Thrust Rocket Motor, Steering Control Unit, and Telemeter with omnidirectional antenna. The proposed sale will result in the transfer of sensitive technology and information as well as classified and unclassified defense equipment and technical data. The hardware and installed software is classified SECRET. Training documentation is classified CONFIDENTIAL. Shipboard operational/tactical employment is generally CONFIDENTIAL, but includes some SECRET data. The all-up round Standard Missiles are classified CONFIDENTIAL. Certain operating frequencies and performance characteristics are classified SECRET.

2. 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.

3. A determination has been made that the recipient government can provide substantially the same degree of protection for the technology being released as the U.S. Government. This sale supports the U.S. foreign policy and national security objectives as outlined in the Policy Justification.

4. All defense articles and services listed in this transmittal have been authorized for release and export to the Republic of Korea.

[FR Doc. 2019–12670 Filed 6–14–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 19–37]

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 19–37 with attached Policy Justification and Sensitivity of Technology.

Dated: June 11, 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 205
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 03 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. 19-37 concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of the United Arab Emirates for defense articles and services estimated to cost \$2.728 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. 19-37

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 United Arab Emirates

(ii) *Total Estimated Value:*

Major Defense Equipment*	\$2.700 billion
Other	\$.028 billion

TOTAL \$2.728 billion

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE): Up to four hundred fifty-two (452) Patriot Advanced Capability 3 (PAC-3) Missiles Segment Enhanced (MSE)

Non-MDE: Also included are tools and test equipment, support equipment, publications and technical documentation, personnel training and

training equipment, spare and repair parts, facility design, U.S. Government and contractor technical, engineering, and logistics support services, and other related elements of logistics, sustainment and program support.

(iv) *Military Department:* Army (AE-B-ZUT)

(v) *Prior Related Cases, if any:* AE-B-ZUG

(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

United Arab Emirates (UAE)— Patriot Missile System and Related Support Equipment

The Government of the United Arab Emirates has requested to buy up to four hundred fifty-two (452) Patriot Advanced Capability 3 (PAC-3) Missiles Segment Enhanced (MSE). Also included are tools and test equipment, support equipment, publications and technical documentation, personnel training and training equipment, spare and repair parts, facility design, U.S. Government and contractor technical, engineering, and logistics support services, and other related elements of logistics, sustainment and program support. The estimated cost is \$2.728 billion.

This proposed sale will support the foreign policy and national security of the United States by helping to improve

the security of an important ally which has been, and continues to be, a force for political stability and economic progress in the Middle East. This sale is consistent with U.S. initiatives to provide key allies in the region with modern systems that will enhance interoperability with U.S. forces and increase security.

The proposed sale will enhance the UAE's capability to meet current and future aircraft and missile threats. The UAE will use the capability as a deterrent to regional threats and to strengthen its homeland defense. The UAE will have no difficulty absorbing these additional missiles into its armed forces.

The proposed sale of these missiles will not alter the basic military balance in the region.

The prime contractor for the PAC-3 System will be Raytheon Corporation, Andover, Massachusetts, and Lockheed-Martin, Dallas, Texas. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed program will require additional contractor representatives to travel to the UAE. It is not expected additional U.S. Government personnel will be required in country for an extended period of time.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 19-37

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 PATRIOT Air Defense System contains classified CONFIDENTIAL hardware components, SECRET tactical software and critical/sensitive technology. The Patriot Advanced Capability -3 (PAC-3) Missile Segment Enhancement (MSE) hardware is classified CONFIDENTIAL and the associated launcher hardware is UNCLASSIFIED. The PAC-3 MSE is a high velocity, hit-to-kill, surface-to-air missile that provides critical air and missile defense by intercepting and destroying Tactical Ballistic Missiles (TBM), Air-Breathing Threats (ABT), cruise missiles, and Unmanned Aerial Systems (UAS).

2. The PAC-3 MSE sensitive/critical technology is primarily in the area of design and production know-how and primarily inherent in the design, development and/or manufacturing data related to certain components. The list of components is classified CONFIDENTIAL.

3. Information on system performance capabilities, effectiveness, survivability, missile seeker capabilities, select software/software documentation and test data are classified up to and including SECRET.

4. 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.

5. A determination has been made that the Government of the UAE 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.

6. All defense articles and services listed in this transmittal have been authorized for release and export to the United Arab Emirates.

[FR Doc. 2019-12667 Filed 6-14-19; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 19-31]

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 19-31 with attached Policy Justification and Sensitivity of Technology.

Dated: June 11, 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

MAY 16 2019

The Honorable Nancy Pelosi
 Speaker of the House
 U.S. House of Representatives
 11-209, 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. 19-31, concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Japan for defense articles and services estimated to cost \$317 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. 19-31

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 Japan

(ii) *Total Estimated Value:*

Major Defense Equipment*	\$302 million
Other	\$ 15 million

TOTAL \$317 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

One hundred sixty (160) AIM-120C-7 Advanced Medium Range Air-to-Air Missiles (AMRAAM)

One (1) AIM-120C-7 AMRAAM Guidance Section

Non-MDE: Also included are containers, weapon support and support

equipment, spare and repair parts, U.S. Government and contractor engineering, technical and logistical support services, and other related elements of logistical and program support.

(iv) *Military Department:* Air Force (JA-D-YCM)

(v) *Prior Related Cases, if any:* JA-D-YAO, JA-D-YAK, JA-D-YAI, JA-D-YAH

(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 16, 2019

*As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Japan—AIM-120C-7 Advanced Medium-Range Air-to-Air Missiles (AMRAAM)

The Government of Japan has requested to buy one hundred sixty (160) AIM-120C-7 Advanced Medium Range Air-to-Air Missiles (AMRAAM), and one (1) AIM-120C-7 AMRAAM guidance section. Also included are containers, weapon support and support equipment, spare and repair parts, U.S. Government and contractor engineering, technical and logistical support services, and other related elements of logistical and program support. The total estimated program cost is \$317 million.

This proposed sale will support the foreign policy and national security of the United States by improving the security of a major ally that is a force for political stability and economic progress in the Asia-Pacific region. It is vital to U.S. national interests to assist Japan in

developing and maintaining a strong and effective self-defense capability.

The proposed sale of these missiles will provide Japan a critical air defense capability to assist in defending the Japanese homeland and U.S. personnel stationed there. Japan will have no difficulty absorbing these additional missiles into its armed forces.

The proposed sale of this equipment and support does not alter the basic military balance in the region.

The prime contractor Raytheon Missile Systems, Tucson, Arizona. There are no known offset arrangements proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the Purchaser and the prime contractor.

Implementation of this sale will not require the assignment of U.S. Government or contractor representatives in Japan.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 19–31

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 proposed sale will involve the release of sensitive technology to the Government of Japan related to the AIM-120C-7 Advance Medium Range Air-to-Air Missile (AMRAAM). The AIM-120C-7 AMRAAM is a radar guided missile featuring digital technology and micro miniature solid-state electronics. AMRAAM capabilities include look-down/shoot-down, multiple launches against multiple targets, resistance to electronic countermeasures, and interception of high flying, low flying, and maneuvering targets. The AMRAAM All Up Round is classified CONFIDENTIAL. The major components and subsystems are classified from UNCLASSIFIED to CONFIDENTIAL, and technology data and other documentation are classified up to SECRET.

2. If a technologically advanced adversary obtained knowledge of the specific hardware or software in the proposed sale, the information could be used to develop counter-measures which might reduce weapons system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. The sensitive technology being released under this notification is subject to the security criteria established in National Disclosure

Policy (NDP-1) for the Government of Japan. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

4. All defense articles and services listed in this transmittal have been authorized for release and export to Japan.

[FR Doc. 2019–12669 Filed 6–14–19; 8:45 am]

BILLING CODE 5001–06–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Notice of Public Hearing

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice of public hearing.

SUMMARY: Notice is hereby given that the Defense Nuclear Facilities Safety Board (DNFSB) will hold a Public Hearing regarding safety management of waste storage and processing in the defense nuclear facilities complex. Following recent incidents at Idaho National Laboratory (INL), the purpose of this Public Hearing is to gather information and discuss Department of Energy (DOE) actions to strengthen the safety posture of solid nuclear waste operations.

DATES: The Public Hearing will be held on June 20, 2019, from 12:00 p.m. to 4:00 p.m.

ADDRESSES: The Public Hearing will be conducted at 625 Indiana Ave. NW, Room 352, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Glenn Sklar, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004–2901, (800) 788–4016. This is a toll-free number.

SUPPLEMENTARY INFORMATION: This Public Hearing will be composed of three sessions. In Session 1, Board Members and DOE officials will discuss DOE actions to strengthen the safety posture of solid nuclear waste operations, including: Understanding the radiological release events at the Waste Isolation Pilot Plant and INL, addressing deficiencies in DOE Standard 5506–2017, understanding the effectiveness of corrective action programs and application of lessons learned across the defense nuclear facilities complex, and strengthening federal subject matter expertise. In Session 1, the Board Members will hear testimony from the Principal Deputy Assistant Secretary for the Office of Environmental Management (EM), the Associate Principle Deputy Assistant

Secretary for Field Operations in EM, the Deputy Assistant Secretary for Safety, Security, and Quality Assurance in EM, and the Principal Deputy Associate Administrator for Safety, Infrastructure, and Operations in the National Nuclear Security Administration (NNSA).

In Session 2, Board Members will gather information on safety controls to assess the vulnerabilities associated with handling and processing of solid nuclear wastes at defense nuclear facilities, including: Preventing undesired chemical reactions, layers of safety controls, identifying and implementing corrective actions, and future operations. In Session 2, the Board Members will hear testimony from the Associate Principal Deputy Assistant Secretary for Field Operations in EM, the Deputy Assistant Secretary for Safety, Security, and Quality Assurance in EM, the Principal Deputy Associate Administrator for Safety, Infrastructure and Operations in NNSA, and the Deputy Manager for Idaho Cleanup Project in EM.

In Session 1 and Session 2, the DNFSB Technical Director will offer testimony presenting the perspective of the DNFSB Staff.

In Session 3, Board Members will hear testimony from interested members of the public. Persons interested in speaking during Session 3 period are encouraged to pre-register by submitting a request in writing to the Board's address listed above, emailing hearing@dnfsb.gov, or calling the Office of the General Counsel at (202) 694–7000 or (800) 788–4016 prior to close of business on June 18, 2019. The Board asks that commenters describe the nature and scope of their oral presentations. Those who pre-register will be scheduled to speak first. Individual oral comments may be limited by the time available, depending on the number of persons who register.

At the beginning of the hearing, the Board will post a list of speakers at the entrance to the hearing room. Anyone who wishes to comment or provide technical information or data may do so in writing, either in lieu of, or in addition to, making an oral presentation. The Board Members may question presenters to the extent deemed appropriate. Written comments and documents will be accepted at the hearing or may be sent to the Board's Washington, DC office. The Board will hold the hearing record open until July 20, 2019, for the receipt of additional materials. Additional details, including the detailed agenda for the hearing, are available at <https://www.dnfsb.gov>.

The hearing will be presented live through internet video streaming. A link to the presentation will be available on the Board's website, and a recording will be posted soon after. A transcript of these sessions and the associated correspondence will be made available on the Board's website. The Board specifically reserves its right to further schedule and otherwise regulate the course of the hearing, to recess, reconvene, postpone, or adjourn the hearing, conduct further reviews, and otherwise exercise its authority under the Atomic Energy Act of 1954, as amended.

(Authority: 42 U.S.C. 2286b(a))

Dated: June 11, 2019.

Bruce Hamilton,
Chairman.

[FR Doc. 2019-12700 Filed 6-14-19; 8:45 am]

BILLING CODE 3670-01-P

DEPARTMENT OF ENERGY

Basic Energy Sciences Advisory Committee; Meeting

AGENCY: Office of Science; Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Basic Energy Sciences Advisory Committee (BESAC). The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

DATES:

Thursday, July 11, 2019; 9:00 a.m. to 5:00 p.m.

Friday, July 12, 2019; 9:00 a.m. to 11:30 p.m.

ADDRESSES: Bethesda North Marriott Hotel and Conference Center, 5701 Marinelli Drive, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Katie Runkles; Office of Basic Energy Sciences; U.S. Department of Energy; Germantown Building, 1000 Independence Avenue SW, Washington, DC 20585; Telephone: (301) 903-6529.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of this Board is to make recommendation to DOE-SC with respect to the basic energy sciences research program.

Tentative Agenda

- Call to Order, Introductions, Review of the Agenda
- News from the Office of Science
- News from the Office of Basic Energy Sciences
- Introduction to Plastic Issue and the Role of Recycling & Upcycling

- Chemical Upcycling of Polymer Roundtable Update
 - Separation Science National Academy of Science Study
 - Exascale Computing Project/Advanced Scientific Computing Advisory Committee Presentation
 - Spallation Neutron Source/Proton Power Upgrade/Second Target Station Update
 - Neutron Subcommittee Update
 - Basic Research Needs for Manufacturing Update
 - Liquid Solar Fuels Update
 - Scientific User Facilities Committee of Visitors Report
 - National Academy of Science Harassment Study
 - Public Comments
 - Adjourn
- Breaks Taken as Appropriate

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Katie Runkles at 301-903-6594 (fax) or katie.runkles@science.doe.gov (email). Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule. Information about the committee can be found at: <https://science.osti.gov/bes/besac>.

Minutes: The minutes of this meeting will be available for public review and copying within 30 days at the Committee's website: <https://science.osti.gov/bes/besac>.

Issued in Washington, DC, on June 12, 2019.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2019-12767 Filed 6-14-19; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE) pursuant to the Paperwork Reduction Act of 1995, intends to extend for three years, an information collection request with the Office of Management and Budget (OMB). The collections in this package are

applicable to contract management in DOE, collected by DOE to monitor and manage the safety performance of its contractors and to fulfill federal reporting requirements. The information obtained from DOE contractors is used by Department management at the appropriate levels to manage the work pertaining to environment, safety and health throughout DOE and will include automated reporting of information into the following systems: Computerized Accident/Incident Reporting System (CAIRS); Occurrence Reporting and Processing System (ORPS); Noncompliance Tracking System (NTS); Radiation Exposure Monitoring System (REMS); Annual Fire Protection Summary Application; Safety Basis Information System; and Lessons Learned System.

DATES: Comments regarding this collection must be received on or before August 16, 2019. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Written comments may be sent to Sandra Dentinger, AU-70, Germantown Building, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC 20585-1290, by fax at (301) 903-0155 or by email at Sandra.dentinger@hq.doe.gov, or information about the collection instruments may be obtained at <http://energy.gov/ehss/information-collection>.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument and instructions should be directed to Sandra Dentinger at Sandra.dentinger@hq.doe.gov or (301) 903-5139.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the extended information collection is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. The information collection request contains the following: (1) *OMB No:* 1910-0300; (2) *Information Collection Request Title:* Environment, Safety and Health; (3) *Type of Review:* Renewal; (4) *Purpose:* The collections are used by DOE to

exercise management oversight and control over its contractors in the ways in which the DOE contractors provide goods and services for DOE organizations and activities in accordance with the terms of their contract(s); the applicable statutory, regulatory and mission support requirements of the Department. (5) *Annual Estimated Number of Respondents*: 845; (6) *Annual Estimated Number of Total Responses*: 82,155; (7) *Response Obligation*: Required, except for Noncompliance Tracking System (see *Statutory Authority* section below); (8) *Annual Estimated Number of Burden Hours*: 37,280; (9) *Annual Estimated Reporting and Recordkeeping Cost Burden*: \$0.

Statutory Authority: Section 641 of the Department of Energy Organization Act, codified at 42 U.S.C. 7251, and the following additional authorities:

Computerized Accident/Incident Reporting System (CAIRS): DOE Order 231.1B (November 28, 2012).

Occurrence Reporting and Processing System (ORPS): DOE Order 232.2A (January 17, 2017).

Noncompliance Tracking System (NTS): 10 CFR part 820; 10 CFR part 851.

Radiation Exposure Monitoring System (REMS): 10 CFR part 835; DOE Order 231.1B (November 28, 2012).

Annual Fire Protection Summary Application: DOE Order 231.1B (November 28, 2012).

Safety Basis Information System: 10 CFR part 830; DOE Order 231.1B (November 28, 2012).

Lessons Learned System: DOE Order 210.2A (April 8, 2011).

Signed in Washington, DC, on June 6, 2019.

Matthew B. Moury,

Associate Under Secretary for Environment, Health, Safety and Security.

[FR Doc. 2019-12760 Filed 6-14-19; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1494-448]

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests: Grand River Dam Authority

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type*: Amendment to extend the license term, modify the

current process plan and integrated licensing process schedule, amend the November 8, 2018 Study Plan Determination, and extend the deadlines for filing revised Exhibit G drawings and an updated Shoreline Management Plan.

b. *Project Number*: 1494-448.

c. *Date Filed*: May 21, 2019.

d. *Applicant*: Grand River Dam Authority.

e. *Name of Project*: Pensacola Hydroelectric Project.

f. *Location*: The project is located on the Grand (Neosho) River in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact*: Ms. Jacklyn Jaggars, Director of Hydropower Projects, Grand River Dam Authority, P.O. Box 70, Langley, OK 74350; (918) 256-0723; jjaggars@grda.com.

i. *FERC Contacts*: Rachel McNamara; (202) 502-8340; Rachel.McNamara@ferc.gov.

j. Deadline for filing comments, motions to intervene, and protests is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, and comments using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P-1494-448. Comments emailed to Commission staff are not considered part of the Commission record.

k. *Description of Filing*: Grand River Dam Authority (GRDA), is requesting to extend the project's license term from March 31, 2022 to December 31, 2026, modify the relicensing process plan and schedule, amend the November 8, 2018 Study Plan Determination, and extend the deadlines for filing revised Exhibit G drawings and an updated Shoreline Management Plan.

At present, GRDA is required to file a final application for a new license by March 31, 2020, two years prior to

license expiration. GRDA requests an extension of the existing license and modification of the relicensing process plan and schedule to: (1) Account for a delay that occurred in initiating the relicensing process; (2) provide additional time for GRDA to complete the required bathymetric survey of Grand Lake and its tributaries; and (3) provide sufficient time for GRDA to incorporate complete results from the required studies and consultation with stakeholders in its preliminary licensing proposal or draft license application. In addition, GRDA proposes that the deadlines required under its current license to file an updated Shoreline Management Plan and revised Exhibit G drawings be extended to coincide with the filing of the final application for a new license.

l. *Locations of Applications*: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 502-8371. This filing may also be viewed on the Commission's website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or email FERCOnlineSupport@ferc.gov, for TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should do so by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions To Intervene*: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*: All filings must (1) bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", or

“COMMENTS;” (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.24(b). All comments, motions to intervene, or protests should relate to the amendment application. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: June 11, 2019.

Kimberly D. Bose,
Secretary.

[FERC Doc. 2019-12737 Filed 6-14-19; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14633-001]

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, and Terms and Conditions: New England Hydropower Company, LLC

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Exemption From Licensing.

b. *Project No.:* 14633-001.

c. *Date filed:* October 1, 2018.

d. *Applicant:* New England Hydropower Company, LLC (NEHC).

e. *Name of Project:* Albion Dam Hydroelectric Project.

f. *Location:* On the Blackstone River, near the Towns of Cumberland and Lincoln, Providence County, Rhode Island. No federal or tribal lands would

be occupied by project works or located within the project boundary.

g. *Filed Pursuant to:* Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2705, 2708 (2012), *amended by* the Hydropower Regulatory Efficiency Act of 2013, Public Law 113-23, 127 Stat. 493 (2013).

h. *Applicant Contact:* Michael C. Kerr, 100 Cummings Center, Suite 451C, Beverly, MA 01915; phone at (978) 360-2547 or email at *Michael@nehydropower.com*.

i. *FERC Contact:* Patrick Crile, (202) 502-8042, or email at *patrick.crile@ferc.gov*.

j. *Deadline for filing comments, recommendations, and terms and conditions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file comments, recommendations, and terms and conditions using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P-14633-001.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is now ready for environmental analysis.

l. *The proposed Albion Dam Hydroelectric Project would consist of:*

(1) An approximately 266-foot-long existing concrete gravity dam with an ogee spillway; (2) an existing 20.4-acre impoundment with a normal storage capacity of 235 acre-feet at an operating elevation of approximately 87.0 feet North American Vertical Datum of 1988; (3) a new 51-foot-long, 45.75-foot-wide

intake canal; (4) two new 14-foot-wide, 10.4-foot-high hydraulically-powered sluice gates, each equipped with a 15-foot-wide, 9.7-foot-high steel trashrack with 9-inch clear-bar spacing; (5) two new 30-foot-long, 15-foot-wide, 9.7-foot-high concrete penstocks; (6) a new 50-foot-long, 24-foot-wide, 18-foot-high concrete powerhouse containing two 210-kilowatt (kW) Archimedes Screw turbine-generator units, for a total installed capacity of 420 kW; (7) a new 50-foot-long concrete tailrace; (8) a new step-up transformer and 500-foot-long, above-ground transmission line connecting the project to the distribution system owned by the Narragansett Electric Company; (9) a new access road; and (10) appurtenant facilities. The existing Albion Dam and appurtenant works are owned by the State of Rhode Island.

NEHC proposes to operate the project in a run-of-river mode with an estimated annual energy production of approximately 2,034 megawatt-hours.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website 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 Online Support. A copy is also available for inspection and reproduction at the Cumberland Town Hall, 45 Broad Street, Cumberland, RI 02864.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," or "TERMS AND CONDITIONS," (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, or terms and conditions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects.

For assistance, contact FERC Online Support.

n. Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission’s regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

o. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens

Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the Rhode Island State Historic Preservation Officer, as required by section 106 of the National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

p. Based on the presence of an existing dam, the applicant’s coordination with federal and state agencies during the preparation of the application, and studies completed during pre-filing consultation, we accept the consultation that has occurred on this project during the pre-filing period as satisfying National Environmental Policy Act scoping. Based on a review of the application, resource agency consultation letters,

and comments filed to date, Commission staff intends to prepare a single environmental assessment (EA) for the proposed project. Commission staff determined that the issues that need to be addressed in its EA have been adequately identified during the pre-filing period, which included a public meeting, and no new issues are likely to be identified through additional scoping. The EA will consider assessing the potential effects of project construction and operation on geology and soils, aquatic, terrestrial, threatened and endangered species, recreation and land use, and cultural and historic resources.

q. *Procedural Schedule and Final Amendments:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Filing of comments, recommendations, and terms and conditions	August 2019.
Commission issues Environmental Assessment	December 2019.

r. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

Dated: June 11, 2019.

Kimberly D. Bose,
Secretary.

[FR Doc. 2019-12738 Filed 6-14-19; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Integrated System Rate Schedule

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of rate order.

SUMMARY: The Assistant Secretary has approved and placed into effect on an interim basis Rate Order No. SWPA-73, which provides the following Integrated System Wholesale Rates for Hydro Peaking Power (P-13A) Rate Schedule: *Rate Schedule P-13A, Wholesale Rates for Hydro Peaking Power.*

FOR FURTHER INFORMATION CONTACT: Ms. Fritha Ohlson, Senior Vice President, Chief Operating Officer, Office of Corporate Operations, (918) 595-6684, fritha.ohlson@swpa.gov, or facsimile transmission (918) 595-6684.

SUPPLEMENTARY INFORMATION: Pursuant to Delegation Order No. 00-037.00B, effective November 19, 2016, and Redelegation Order No. 00-002.10D,

effective June 4, 2019, Rate Order No. SWPA-73, is approved and placed into effect on an interim basis for the period July 1, 2019 through September 30, 2019, pursuant to the following rate schedule: *Rate Schedule P-13A, Wholesale Rates for Hydro Peaking Power*, which supersedes the existing Rate Schedule P-13, Wholesale Rates for Hydro Peaking Power. Southwestern Power Administration’s (Southwestern) Administrator determined that an additional section within Southwestern’s Integrated System P Rate Schedule was needed to provide a single instrument and procedure for establishing and making limited adjustments to its Peaking Energy Schedule Submission Time.

Established by a provision in each customer’s power sales contract, Southwestern’s current requirement is that customers submit Peaking Energy schedules to Southwestern on or before 2:00 p.m. Central Prevailing Time (CPT) of the day preceding the day for delivery of Peaking Energy. The existing power sales contracts permit a change to the Peaking Energy schedule submission time provided the time change is specified in Southwestern’s in-effect Rate Schedule for Hydro Peaking Power. Southwestern’s customers requested that Southwestern consider shifting the Peaking Energy schedule submission time later in the day, which allows Southwestern’s customers to best incorporate Federal hydropower in their energy resource portfolios and better

align with regional energy market considerations. Southwestern performed studies to determine if a change to the submission time would create any operational or financial issues. At this time, there are no significant issues identified with changing the Peaking Energy schedule submission time from 2:00 p.m. CPT to the proposed 2:30 p.m. CPT. Southwestern’s customers have expressed support for such a change. Therefore, Southwestern determined that it would pursue shifting its Peaking Energy schedule submission time from 2:00 p.m. CPT to 2:30 p.m. CPT.

For customers that schedule Peaking Energy with Southwestern, the customers’ power sales contracts contain a provision for submitting Peaking Energy schedules to Southwestern on or before 2:00 p.m. CPT of the day preceding the day for delivery of Peaking Energy, *unless otherwise specified in Southwestern’s in-effect Rate Schedule for Hydro Peaking Power.* However, the P-13 Rate Schedule had no provision for establishing or adjusting the time for customers to submit Peaking Energy schedules. The Administrator determined that adding the new Section 4.2 to the P-13 Rate Schedule, together with the corresponding definition of “Peaking Energy Schedule Submission Time” added as new Section 1.9, implements the desired change in Peaking Energy schedule submission time most efficiently. Additionally, the new Section 4.2 provides a procedure

by which the Administrator may adjust the Peaking Energy Schedule Submission Time once annually to a time no earlier than 2:00 p.m. CPT and no later than 3:00 p.m. CPT. The name of the new rate schedule will be P-13A to reflect the fact that a new section was added.

The Southwestern 2013 PRS indicated that rates prescribed by P-13, Wholesale Rates for Hydro Peaking Power, as approved in Docket No. EF14-1-000, for the period October 1, 2013, through September 30, 2017 (and extended through September 30, 2019), are sufficient to meet repayment criteria and will have no impact on the amortization or status of repayment forecasted in the Southwestern 2013 PRS and will not require rate changes. Revenues based on current rates remain sufficient to meet repayment criteria.

The Southwestern Administrator has followed title 10, part 903, subpart A of the Code of Federal Regulations (10 CFR part 903), "Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions," in connection with the rate schedule revision. The public was advised by notice published in the **Federal Register** (84 FR 8851), March 12, 2019, of the proposed rate schedule change and of the opportunity to provide written comments for a period of 30 days ending April 11, 2019. No comments were received.

Information regarding this rate proposal, including studies and other supporting material, is available for public review in the offices of Southwestern Power Administration, Williams Tower I, One West Third Street, Tulsa, Oklahoma 74103. Following review of Southwestern's proposal within the Department of Energy, I approve Rate Order No. SWPA-73.

Dated: June 7, 2019.

Bruce J. Walker,
Assistant Secretary.

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY

DEPUTY SECRETARY

In the matter of: Southwestern Power
Administration Integrated System
Hydro Peaking Power Rate Schedule

Rate Order No. SWPA-73

ORDER CONFIRMING, APPROVING
AND PLACING REVISED POWER RATE
SCHEDULE IN EFFECT ON AN
INTERIM BASIS

(July 1, 2019)

Pursuant to Sections 302(a) and
301(b) of the Department of Energy

Organization Act, Public Law 95-91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southwestern Power Administration (Southwestern) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 00-037.00B, the Secretary of Energy delegated to the Administrator of Southwestern the authority to develop power and transmission rates and the Federal Energy Regulatory Commission (FERC) was delegated the authority to confirm and approve on a final basis or to disapprove rates developed by the Administrator under the delegation. By Redelegation Order No. 00-002.10D authority to confirm, approve, and place in effect such rates on an interim basis was delegated to the Assistant Secretary for Electricity of the Department of Energy. Pursuant to that delegated authority, the Assistant Secretary has issued this interim rate order.

BACKGROUND

In July 2013, Southwestern completed its review of the adequacy of the current rate schedules for the Integrated System and finalized its 2013 Power Repayment Studies (PRS). The 2013 PRS indicated that the proposed rates would meet cost recovery criteria for the Integrated System. The Federal Energy Regulatory Commission's (FERC) confirmation and approval of the Integrated System rate schedules, including Rate Schedule P-13, Wholesale Rates for Hydro Peaking Power, was provided in a FERC order issued in Docket No. EF14-1-000 on January 9, 2014,¹ for the period October 1, 2013, through September 30, 2017 and subsequently extended for a two-year period effective October 1, 2017 through September 30, 2019 by the Deputy Secretary of Energy. Based on operations under the approved rate schedules, the Administrator determined that adding a new section to the existing P-13 Rate Schedule, together with the corresponding definition of "Peaking Energy Schedule Submission Time" added as new Section 1.9, will provide a single instrument and procedure for establishing and making limited adjustments to its Peaking Energy Schedule Submission Time. A new section 4.2 provides a shift of its Peaking Energy schedule submission time from 2:00 p.m. Central Prevailing Time (CPT) to 2:30 p.m. CPT and a procedure by which the Administrator may adjust the Peaking Energy Schedule Submission Time once annually to a

time no earlier than 2:00 p.m. CPT and no later than 3:00 p.m. CPT if deemed needed.

The designation of the rate schedule has been revised from P-13 to P-13A to reflect that a new section has been added.

Southwestern followed Title 10, Part 903 Subpart A, of the Code of Federal Regulations, "Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions" (Part 903) in connection with the proposed Rate Schedule P-13A. An opportunity for customers and other interested members of the public to review and comment on the proposed rate schedule was announced by notice published in the *Federal Register* March 12, 2019, (84 FR 8851), with written comments due by April 11, 2019.

DISCUSSION

Established by the provision in each customer's power sales contract, Southwestern's current requirement is that customers submit Peaking Energy schedules to Southwestern on or before 2:00 p.m. CPT of the day preceding the day for delivery of Peaking Energy. The existing power sales contracts permit a change to the Peaking Energy schedule submission time provided the time change is specified in Southwestern's in-effect Rate Schedule for Hydro Peaking Power. Southwestern's customers requested that Southwestern consider shifting the Peaking Energy schedule submission time later in the day, which allows Southwestern's customers to best incorporate Federal hydropower in their energy resource portfolios and better align with regional energy market considerations. Southwestern performed studies to determine if a change to the submission time would create any operational or financial issues. At this time, there are no significant issues identified with changing the Peaking Energy schedule submission time from 2:00 p.m. CPT to the proposed 2:30 p.m. CPT. Southwestern's customers have expressed support for such a change. Therefore, Southwestern determined that it would pursue shifting its Peaking Energy schedule submission time from 2:00 p.m. CPT to 2:30 p.m. CPT.

For customers that schedule Peaking Energy with Southwestern, the customers' power sales contracts contain a provision for submitting Peaking Energy schedules to Southwestern on or before 2:00 p.m. CPT of the day preceding the day for delivery of Peaking Energy, *unless otherwise specified in Southwestern's in-effect Rate Schedule for Hydro Peaking Power*. However, the in-effect P-

¹ 146 FERC ¶62,016

13 Rate Schedule had no provision for establishing or adjusting the time for customers to submit Peaking Energy schedules. The Administrator determined that adding the new Section 4.2 to the P-13 Rate Schedule, together with the corresponding definition of "Peaking Energy Schedule Submission Time" added as new Section 1.9, implements the desired change in Peaking Energy schedule submission time most efficiently. Additionally, the new Section 4.2 provides a procedure by which the Administrator may adjust the Peaking Energy Schedule Submission Time once annually to a time no earlier than 2:00 p.m. CPT and no later than 3:00 p.m. CPT. The name of the new rate schedule will be P-13A to reflect the fact that a new section was added.

COMMENTS AND RESPONSES

No comments were received.

AVAILABILITY OF INFORMATION

Information regarding this rate schedule change is available for public review in the offices of Southwestern Power Administration, Williams Tower I, One West Third Street, Tulsa, Oklahoma 74103.

ADMINISTRATOR'S CERTIFICATION

The revised rate schedule will repay all costs of the Integrated System including amortization of the power investment consistent with the provisions of Department of Energy Order No. RA 6120.2. In accordance with Delegation Order No. 00-037.00B, effective November 19, 2016, and Redefinition Order No. 00-002.10D, effective June 4, 2019, and Section 5 of the Flood Control Act of 1944, the Administrator has determined that the proposed Integrated System rate schedule is consistent with applicable law and the lowest possible rates consistent with sound business principles.

ENVIRONMENT

No additional evaluation of the environmental impact of the proposed rate schedule change was conducted since no change in anticipated revenues has been made to the currently-approved Integrated System rates which were determined by the Southwestern National Environmental Policy Act (NEPA) Compliance Officer to fall within the class of actions that are categorically excluded from the requirements of preparing either an Environmental Impact Statement or an Environmental Assessment.

ADMINISTRATIVE PROCEDURES

The Administrative Procedure Act (5 U.S.C. 553(d)) prescribes that the required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except (1) a substantive rule that grants or recognizes an exemption or relieves a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule. For the reasons stated in the paragraph that follows, the Department of Energy finds good cause to waive the 30-day delay in effective date because a 30-day delay would be unnecessary.

Specifically, in this action, Southwestern updates its submission time for Peaking Energy schedules from 2:00 p.m. CPT to 2:30 p.m. CPT. The change provides an extended time during which Southwestern's customers may submit their Peaking Energy schedules to Southwestern, thereby allowing the customers to best incorporate Federal hydropower in their energy resource portfolios in a manner providing more value, as the timing better aligns with regional energy market considerations. There are no additional contractual or operational changes required by Southwestern or its customers to effectuate the Peaking Energy schedule submission time change provided for in P-13A. Commenters raised no concerns during the public comment period for the P-13A rate action.

Furthermore, the P-13A rate schedule change effects no change in anticipated revenues. It is considered a "minor rate adjustment" pursuant to Southwestern's regulations at 10 CFR part 903, subpart A, and Southwestern has treated it as such in the rate actions to date. A "minor rate adjustment" is defined as a rate adjustment that (1) will produce less than 1 percent change in the annual revenues of the power system; or (2) is for a power system that has either annual sales normally less than 100 million kilowatt hours or an installed capacity of less than 20,000 kilowatts. 10 CFR part 903, subpart A, (as amended in *Federal Register* (84 FR 5347)) provides that the effective date of rate schedules put into effect on an interim basis by the Secretary or his or her designee may be sooner than 30 days after the Secretary's decision "when appropriate to meet a contract deadline, to avoid financial difficulties, to provide a rate for new service, or to make a minor rate adjustment."

ORDER

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm, approve and place in effect on an interim basis, effective July 1, 2019, the Southwestern Integrated System Rate Schedule P-13A which shall remain in effect on an interim basis through September 30, 2019, or the FERC confirms and approves the rates on a final basis.

Dated: June 7, 2019.

Bruce J. Walker,
Assistant Secretary.

UNITED STATES DEPARTMENT OF ENERGY

SOUTHWESTERN POWER ADMINISTRATION

RATE SCHEDULE P-13A²**

WHOLESALE RATES FOR HYDRO PEAKING POWER

Effective:

During the period October 1, 2013, through September 30, 2019**, in accordance with Federal Energy Regulatory Commission order issued January 9, 2014, Docket No. EF14-1-000.

Available:

In the marketing area of Southwestern Power Administration (Southwestern), described generally as the States of Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas.

Applicable:

To wholesale Customers which have contractual rights from Southwestern to purchase Hydro Peaking Power and associated energy (Peaking Energy and Supplemental Peaking Energy).

Character and Conditions of Service:

Three-phase, alternating current, delivered at approximately 60 Hertz, at the nominal voltage(s), at the point(s) of delivery, and in such quantities as are specified by contract.

1.

Definitions of Terms

1.1. Ancillary Services

The services necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the System of Southwestern in accordance with good utility practice, which include the following:

² Supersedes Rate Schedule P-13.

** Extended through September 30, 2019 by approval of Rate Order No. SWPA-72 by the Deputy Secretary of Energy.

1.1.1. Scheduling, System Control, and Dispatch Service

is provided by Southwestern as Balancing Authority Area operator and is in regard to interchange and load-match scheduling and related system control and dispatch functions.

1.1.2. Reactive Supply and Voltage Control from Generation Sources Service

is provided at transmission facilities in the System of Southwestern to produce or absorb reactive power and to maintain transmission voltages within specific limits.

1.1.3. Regulation and Frequency Response Service

is the continuous balancing of generation and interchange resources accomplished by raising or lowering the output of on-line generation as necessary to follow the moment-by-moment changes in load and to maintain frequency within a Balancing Authority Area.

1.1.4. Spinning Operating Reserve Service

maintains generating units on-line, but loaded at less than maximum output, which may be used to service load immediately when disturbance conditions are experienced due to a sudden loss of generation or load.

1.1.5. Supplemental Operating Reserve Service

provides an additional amount of operating reserve sufficient to reduce Area Control Error to zero within 10 minutes following loss of generating capacity which would result from the most severe single contingency.

1.1.6. Energy Imbalance Service

corrects for differences over a period of time between schedules and actual hourly deliveries of energy to a load. Energy delivered or received within the authorized bandwidth for this service is accounted for as an inadvertent flow and is returned to the providing party by the receiving party in accordance with standard utility practice or a contractual arrangement between the parties.

1.2. Customer

The entity which is utilizing and/or purchasing Federal Power and Federal Energy and services from Southwestern pursuant to this Rate Schedule.

1.3. Demand Period

The period of time used to determine maximum integrated rates of delivery for the purpose of power accounting

which is the 60-minute period that begins with the change of hour.

1.4. Federal Power and Energy

The power and energy provided from the System of Southwestern.

1.5. Hydro Peaking Power

The Federal Power that Southwestern sells and makes available to the Customers through their respective Power Sales Contracts in accordance with this Rate Schedule.

1.6. Peaking Billing Demand

The quantity equal to the Peaking Contract Demand for any month unless otherwise provided by the Customer's Power Sales Contract.

1.7. Peaking Contract Demand

The maximum rate in kilowatts at which Southwestern is obligated to deliver Federal Energy associated with Hydro Peaking Power as set forth in the Customer's Power Sales Contract.

1.8. Peaking Energy

The Federal Energy associated with Hydro Peaking Power that Southwestern sells and makes available to the Customer in accordance with the terms and conditions of the Customer's Power Sales Contract.

1.9. Peaking Energy Schedule Submission Time

The time by which Southwestern requires the Customer to submit Peaking Energy schedules to Southwestern as provided for in this Rate Schedule and in accordance with the terms and conditions of the Customer's Power Sales Contract.

1.10. Power Sales Contract

The Customer's contract with Southwestern for the sale of Federal Power and Federal Energy.

1.11. Supplemental Peaking Energy

The Federal Energy associated with Hydro Peaking Power that Southwestern sells and makes available to the Customer if determined by Southwestern to be available and that is in addition to the quantity of Peaking Energy purchased by the Customer in accordance with the terms and conditions of the Customer's Power Sales Contract.

1.12. System of Southwestern

The transmission and related facilities owned by Southwestern, and/or the generation, transmission, and related facilities owned by others, the capacity of which, by contract, is available to and utilized by Southwestern to satisfy its contractual obligations to the Customer.

1.13. Uncontrollable Force

Any force which is not within the control of the party affected, including, but not limited to failure of water supply, failure of facilities, flood, earthquake, storm, lightning, fire, epidemic, riot, civil disturbance, labor disturbance, sabotage, war, act of war, terrorist acts, or restraint by court of general jurisdiction, which by exercise of due diligence and foresight such party could not reasonably have been expected to avoid.

2.

Wholesale Rates, Terms, and Conditions for Hydro Peaking Power, Peaking Energy, Supplemental Peaking Energy, and Associated Services

Unless otherwise specified, this Section 2 is applicable to all sales under the Customer's Power Sales Contract.

2.1. Hydro Peaking Power Rates, Terms, and Conditions**2.1.1. Monthly Capacity Charge for Hydro Peaking Power**

\$4.50 per kilowatt of Peaking Billing Demand.

2.1.2. Services Associated with Capacity Charge for Hydro Peaking Power

The capacity charge for Hydro Peaking Power includes such transmission services as are necessary to integrate Southwestern's resources in order to reliably deliver Hydro Peaking Power and associated energy to the Customer. This capacity charge also includes two Ancillary Services charges: Scheduling, System Control, and Dispatch Service; and Reactive Supply and Voltage Control from Generation Sources Service.

2.1.3. Secondary Transmission Service under Capacity Associated with Hydro Peaking Power

Customers may utilize the transmission capacity associated with Peaking Contract Demand for the transmission of non-Federal energy, on a non-firm, as-available basis, at no additional charge for such transmission service or associated Ancillary Services, under the following terms and conditions:

2.1.3.1. The sum of the capacity, for any hour, which is used for Peaking Energy, Supplemental Peaking Energy, and Secondary Transmission Service, may not exceed the Peaking Contract Demand;

2.1.3.2. The non-Federal energy transmitted under such secondary service is delivered to the Customer's

point of delivery for Hydro Peaking Power;

2.1.3.3. The Customer commits to provide Real Power Losses associated with such deliveries of non-Federal energy; and

2.1.3.4. Sufficient transfer capability exists between the point of receipt into the System of Southwestern of such non-Federal energy and the Customer's point of delivery for Hydro Peaking Power for the time period that such secondary transmission service is requested.

2.1.4. Adjustment for Reduction in Service

If, during any month, the Peaking Contract Demand associated with a Power Sales Contract in which Southwestern has the obligation to provide 1,200 kilowatthours of Peaking Energy per kilowatt of Peaking Contract Demand is reduced by Southwestern for a period or periods of not less than two consecutive hours by reason of an outage caused by either an Uncontrollable Force or by the installation, maintenance, replacement or malfunction of generation, transmission and/or related facilities on the System of Southwestern, or insufficient pool levels, the Customer's capacity charges for such month will be reduced for each such reduction in service by an amount computed under the formula:

$$R = (C \times K \times H) \div S$$

with the factors defined as follows:

R = The dollar amount of reduction in the monthly total capacity charges for a particular reduction of not less than two consecutive hours during any month, except that the total amount of any such reduction shall not exceed the product of the Customer's capacity charges associated with Hydro Peaking Power times the Peaking Billing Demand.

C = The Customer's capacity charges associated with Hydro Peaking Power for the Peaking Billing Demand for such month.

K = The reduction in kilowatts in Peaking Billing Demand for a particular event.

H = The number of hours duration of such particular reduction.

S = The number of hours that Peaking Energy is scheduled during such month, but not less than 60 hours times the Peaking Contract Demand.

Such reduction in charges shall fulfill Southwestern's obligation to deliver Hydro Peaking Power and Peaking Energy.

2.2. Peaking Energy and Supplemental Peaking Energy Rates, Terms, and Conditions

2.2.1. Peaking Energy Charge

\$0.0094 per kilowatthour of Peaking Energy delivered plus the Purchased Power Adder as defined in Section 2.2.3 of this Rate Schedule.

2.2.2. Supplemental Energy Charge

\$0.0094 per kilowatthour of Supplemental Peaking Energy delivered.

2.2.3. Purchased Power Adder

A purchased power adder of \$0.0059 per kilowatthour of Peaking Energy delivered, as adjusted by the Administrator, Southwestern, in accordance with the procedure within this Rate Schedule.

2.2.3.1. Applicability of Purchased Power Adder

The Purchased Power Adder shall apply to sales of Peaking Energy. The Purchased Power Adder shall not apply to sales of Supplemental Peaking Energy or sales to any Customer which, by contract, has assumed the obligation to supply energy to fulfill the minimum of 1,200 kilowatthours of Peaking Energy per kilowatt of Peaking Contract Demand during a contract year (hereinafter "Contract Support Arrangements").

2.2.3.2. Procedure for Determining Net Purchased Power Adder Adjustment

Not more than twice annually, the Purchased Power Adder of \$0.0059 (5.9 mills) per kilowatthour of Peaking Energy, as noted in this Rate Schedule, may be adjusted by the Administrator, Southwestern, by an amount up to a total of \pm \$0.0059 (5.9 mills) per kilowatthour per year, as calculated by the following formula:

$$ADJ = (PURCH - EST + DIF) \div SALES$$

with the factors defined as follows:

ADJ = The dollar per kilowatthour amount of the total adjustment, plus or minus, to be applied to the net Purchased Power Adder, rounded to the nearest \$0.0001 per kilowatthour, provided that the total ADJ to be applied in any year shall not vary from the then-effective ADJ by more than \$0.0059 per kilowatthour;

PURCH = The actual total dollar cost of Southwestern's System Direct Purchases as accounted for in the financial records of the Southwestern Federal Power System for the period;

EST = The estimated total dollar cost (\$13,273,800 per year) of Southwestern's System Direct

Purchases used as the basis for the Purchased Power Adder of \$0.0059 per kilowatthour of Peaking Energy;

DIF = The accumulated remainder of the difference in the actual and estimated total dollar cost of Southwestern's System Direct Purchases since the effective date of the currently approved Purchased Power Adder set forth in this Rate Schedule, which remainder is not projected for recovery through the ADJ in any previous periods;

SALES = The annual Total Peaking Energy sales projected to be delivered (2,241,300,000 KWh per year) from the System of Southwestern, which total was used as the basis for the \$0.0059 per kilowatthour Purchased Power Adder.

2.3. Transformation Service Rates, Terms, and Conditions

2.3.1. Monthly Capacity Charge for Transformation Service

\$0.46 per kilowatt will be assessed for capacity used to deliver energy at any point of delivery at which Southwestern provides transformation service for deliveries at voltages of 69 kilovolts or less from higher voltage facilities.

2.3.2. Applicability of Capacity Charge for Transformation Service

Unless otherwise specified by contract, for any particular month, a charge for transformation service will be assessed on the greater of (1) that month's highest metered demand, or (2) the highest metered demand recorded during the previous 11 months, at any point of delivery. For the purpose of this Rate Schedule, the highest metered demand will be based on all deliveries, of both Federal and non-Federal energy, from the System of Southwestern, at such point during such month.

2.4. Ancillary Services Rates, Terms, and Conditions

2.4.1. Capacity Charges for Ancillary Services

2.4.1.1. Regulation and Frequency Response Service

Monthly rate of \$0.07 per kilowatt of Peaking Billing Demand plus the Regulation Purchased Adder as defined in Section 2.4.5 of this Rate Schedule.

2.4.1.2. Spinning Operating Reserve Service

Monthly rate of \$0.0146 per kilowatt of Peaking Billing Demand.

Daily rate of \$0.00066 per kilowatt for non-Federal generation inside Southwestern's Balancing Authority Area.

2.4.1.3. Supplemental Operating Reserve Service

Monthly rate of \$0.0146 per kilowatt of Peaking Billing Demand.
Daily rate of \$0.00066 per kilowatt for non-Federal generation inside Southwestern’s Balancing Authority Area.

2.4.1.4. Energy Imbalance Service

\$0.0 per kilowatt for all reservation periods.

2.4.2. Availability of Ancillary Services

Regulation and Frequency Response Service and Energy Imbalance Service are available only for deliveries of power and energy to load within Southwestern’s Balancing Authority Area. Spinning Operating Reserve Service and Supplemental Operating Reserve Service are available only for deliveries of non-Federal power and energy generated by resources located within Southwestern’s Balancing Authority Area and for deliveries of all Hydro Peaking Power and associated energy from and within Southwestern’s Balancing Authority Area. Where available, such Ancillary Services must be taken from Southwestern; unless, arrangements are made in accordance with Section 2.4.4 of this Rate Schedule.

2.4.3. Applicability of Charges for Ancillary Services

For any month, the charges for Ancillary Services for deliveries of Hydro Peaking Power shall be based on the Peaking Billing Demand.

The daily charge for Spinning Operating Reserve Service and Supplemental Operating Reserve Service for non-Federal generation inside Southwestern’s Balancing Authority Area shall be applied to the greater of Southwestern’s previous day’s estimate of the peak, or the actual peak, in kilowatts, of the internal non-Federal generation.

2.4.4. Provision of Ancillary Services by Others

Customers for which Ancillary Services are made available as specified above, must inform Southwestern by written notice of the Ancillary Services which they do *not* intend to take and purchase from Southwestern, and of their election to provide all or part of such Ancillary Services from their own resources or from a third party.

Subject to Southwestern’s approval of the ability of such resources or third parties to meet Southwestern’s technical and operational requirements for provision of such Ancillary Services, the Customer may change the Ancillary Services which it takes from Southwestern and/or from other sources at the beginning of any month upon the greater of 60 days notice or upon completion of any necessary equipment modifications necessary to accommodate such change; *Provided*, That, if the Customer chooses not to take Regulation and Frequency Response Service, which includes the associated Regulation Purchased Adder, the Customer must pursue these

services from a different host Balancing Authority; thereby moving all metered loads and resources from Southwestern’s Balancing Authority Area to the Balancing Authority Area of the new host Balancing Authority. Until such time as that meter reconfiguration is accomplished, the Customer will be charged for the Regulation and Frequency Response Service and applicable Adder then in effect. The Customer must notify Southwestern by July 1 of this choice, to be effective the subsequent calendar year.

2.4.5. Regulation Purchased Adder

Southwestern has determined the amount of energy used from storage to provide Regulation and Frequency Response Service in order to meet Southwestern’s Balancing Authority Area requirements. The replacement value of such energy used shall be recovered through the Regulation Purchased Adder. The Regulation Purchased Adder during the time period of January 1 through December 31 of the current calendar year is based on the average annual use of energy from storage¹ for Regulation and Frequency Response Service and Southwestern’s estimated purchased power price for the corresponding year from the most currently approved Power Repayment Studies.

The Regulation Purchased Adder will be phased in over a period of four (4) years as follows:

Year	Regulation Purchased Adder for the incremental replacement value of energy used from storage
2014	1/4 of the average annual use of energy from storage × 2014 Purchased Power price.
2015	1/2 of the average annual use of energy from storage × 2015 Purchased Power price.
2016	3/4 of the average annual use of energy from storage × 2016 Purchased Power price.
2017 and thereafter	The total average annual use of energy from storage × the applicable Purchased Power price.

2.4.5.1. Applicability of Regulation Purchased Adder

The replacement value of the estimated annual use of energy from storage for Regulation and Frequency Response Service shall be recovered by Customers located within Southwestern’s Balancing Authority Area on a non-coincident peak ratio share basis, divided into twelve equal monthly payments, in accordance with the formula in Section 2.4.5.2.

If the Regulation Purchased Adder is determined and applied under Southwestern’s Rate Schedule NFTS-13, then it shall not be applied here.

2.4.5.2. Procedure for Determining Regulation Purchased Adder

Unless otherwise specified by contract, the Regulation Purchased Adder for an individual Customer shall be based on the following formula rate, calculated to include the replacement value of the estimated annual use of energy from storage by Southwestern for Regulation and Frequency Response Service.

RPA = The Regulation Purchased Adder for an individual Customer per month, which is as follows:

$$[(L_{Customer} \div L_{Total}) \times RP_{Total}] \div 12$$

with the factors defined as follows:

$L_{Customer}$ = The sum in MW of the following three factors:

- (1) The Customer’s highest metered load plus generation used to serve the Customer’s load that is accounted for through a reduction in the Customer’s metered load (referred to as ‘generation behind the meter’) during the previous calendar year, and
- (2) The Customer’s highest rate of Scheduled Exports² during the previous calendar year, and
- (3) The Customer’s highest rate of Scheduled Imports² during the previous calendar year.

metered load that contribute to Southwestern’s Balancing Authority Area need for regulation.

¹ The average annual use of energy from storage for Regulation and Frequency Response Service is based on Southwestern studies.

² Scheduled Exports and Scheduled Imports are transactions, such as sales and purchases respectively, which are in addition to a Customer’s

L_{Total} = The sum of all $L_{Customer}$ factors for all Customers that were inside Southwestern’s Balancing Authority Area at the beginning of the previous calendar year in MW.

RP_{Total} = The “net” cost in dollars and cents based on Southwestern’s estimated purchased power price for the corresponding year from the most currently approved Power Repayment Studies multiplied by the average annual use of energy from storage, as provided for in the table in Section 2.4.5, to support Southwestern’s ability to regulate within its Balancing Authority Area. The “net” cost in dollars and cents shall be adjusted by subtracting the product of the quantity of such average annual use of energy from storage in MWh and Southwestern’s highest rate in dollars per MWh for Supplemental

Peaking Energy during the previous calendar year.

For Customers that have aggregated their load, resources, and scheduling into a single node by contract within Southwestern’s Balancing Authority Area, the individual Customer’s respective Regulation Purchased Adder shall be that Customer’s ratio share of the Regulation Purchased Adder established for the node. Such ratio share shall be determined for the Customer on a non-coincident basis and shall be calculated for the Customer from their highest metered load plus generation behind the meter.

2.4.6. Energy Imbalance Service Limitations

Energy Imbalance Service primarily applies to deliveries of power and energy which are required to satisfy a Customer’s load. As Hydro Peaking Power and associated energy are limited

by contract, the Energy Imbalance Service bandwidth specified for Non-Federal Transmission Service does not apply to deliveries of Hydro Peaking Power, and therefore Energy Imbalance Service is not charged on such deliveries. Customers who consume a capacity of Hydro Peaking Power greater than their Peaking Contract Demand may be subject to a Capacity Overrun Penalty.

3. Hydro Peaking Power Penalties, Terms, and Conditions

3.1 Capacity Overrun Penalty

3.1.1. Penalty Charge for Capacity Overrun

For each hour during which Hydro Peaking Power was provided at a rate greater than that to which the Customer is entitled, the Customer will be charged a Capacity Overrun Penalty at the following rates:

Months associated with charge	Rate per kilowatt
March, April, May, October, November, December	\$0.15
January, February, June, July, August, September	0.30

3.1.2. Applicability of Capacity Overrun Penalty

Customers which have loads within Southwestern’s Balancing Authority Area are obligated by contract to provide resources, over and above the Hydro Peaking Power and associated energy purchased from Southwestern, sufficient to meet their loads. A Capacity Overrun Penalty shall be applied only when the formulas provided in Customers’ respective Power Sales Contracts indicate an overrun on Hydro Peaking Power, and investigation determines that all resources, both firm and non-firm, which were available at the time of the apparent overrun were insufficient to meet the Customer’s load.

3.2. Energy Overrun Penalty

3.2.1. Penalty Charge for Energy Overrun

\$0.1034 per kilowatthour for each kilowatthour of overrun.

3.2.2. Applicability of Energy Overrun Penalty

By contract, the Customer is subject to limitations on the maximum amounts of Peaking Energy which may be scheduled under the Customer’s Power Sales Contract. When the Customer schedules an amount in excess of such maximum amounts, such Customer is subject to the Energy Overrun Penalty.

3.3. Power Factor Penalty

3.3.1. Requirements Related to Power Factor

Any Customer served from facilities owned by or available by contract to Southwestern will be required to maintain a power factor of not less than 95 percent and will be subject to the following provisions.

3.3.2. Determination of Power Factor

The power factor will be determined for all Demand Periods and shall be calculated under the formula:

$$PF = (kWh) \div \sqrt{(kWh^2 + rkVAh^2)}$$

with the factors defined as follows:

PF = The power factor for any Demand Period of the month.

kWh = The total quantity of energy which is delivered during such Demand Period to the point of delivery or interconnection in accordance with Section 3.3.4.

rkVAh = The total quantity of reactive kilovolt-ampere-hours (kVARs) delivered during such Demand Period to the point of delivery or interconnection in accordance with Section 3.3.4.

3.3.3. Penalty Charge for Power Factor

The Customer shall be assessed a penalty for all Demand Periods of a month where the power factor is less than 95 percent lagging. For any

Demand Period during a particular month such penalty shall be in accordance with the following formula:

$$C = D \times (0.95 - LPF) \times \$0.10$$

with the factors defined as follows:

C = The charge in dollars to be assessed for any particular Demand Period of such month that the determination of power factor “PF” is calculated to be less than 95 percent lagging.

D = The Customer’s demand in kilowatts at the point of delivery for such Demand Period in which a low power factor was calculated.

LPF = The lagging power factor, if any, determined by the formula “PF” for such Demand Period.

If C is negative, then C = zero (0).

3.3.4. Applicability of Power Factor Penalty

The Power Factor Penalty is applicable to radial interconnections with the System of Southwestern. The total Power Factor Penalty for any month shall be the sum of all charges “C” for all Demand Periods of such month. No penalty is assessed for leading power factor. Southwestern, in its sole judgment and at its sole option, may determine whether power factor calculations should be applied to (i) a single physical point of delivery, (ii) a combination of physical points of delivery where a Customer has a single, electrically integrated load, (iii) or interconnections. The general criteria

for such decision shall be that, given the configuration of the Customer's and Southwestern's systems, Southwestern will determine, in its sole judgment and at its sole option, whether the power factor calculation more accurately assesses the detrimental impact on Southwestern's system when the above formula is calculated for a single physical point of delivery, a combination of physical points of delivery, or for an interconnection as specified by an Interconnection Agreement.

Southwestern, at its sole option, may reduce or waive Power Factor Penalties when, in Southwestern's sole judgment, low power factor conditions were not detrimental to the System of Southwestern due to particular loading and voltage conditions at the time the power factor dropped below 95 percent lagging.

4.

Hydro Peaking Power Miscellaneous Rates, Terms, and Conditions

4.1. Real Power Losses

Customers are required to self-provide all Real Power Losses for non-Federal

energy transmitted by Southwestern on behalf of such Customers under the provisions detailed below.

Real Power Losses are computed as four (4) percent of the total amount of non-Federal energy transmitted by Southwestern. The Customer's monthly Real Power Losses are computed each month on a megawatthour basis as follows:

$$ML = 0.04 \times NFE$$

with the factors defined as follows:

ML = The total monthly loss energy, rounded to the nearest megawatthour, to be scheduled by a Customer for receipt by Southwestern for Real Power Losses associated with non-Federal energy transmitted on behalf of such Customer; and

NFE = The amount of non-Federal energy that was transmitted by Southwestern on behalf of a Customer during a particular month.

The Customer must schedule or cause to be scheduled to Southwestern, Real Power Losses for which it is responsible subject to the following conditions:

4.1.1. The Customer shall schedule and deliver Real Power Losses back to Southwestern during the second month after they were incurred by Southwestern in the transmission of the Customer's non-Federal power and energy over the System of Southwestern unless such Customer has accounted for Real Power Losses as part of a metering arrangement with Southwestern.

4.1.2. On or before the twentieth day of each month, Southwestern shall determine the amount of non-Federal loss energy it provided on behalf of the Customer during the previous month and provide a written schedule to the Customer setting forth hour-by-hour the quantities of non-Federal energy to be delivered to Southwestern as losses during the next month.

4.1.3. Real Power Losses not delivered to Southwestern by the Customer, according to the schedule provided, during the month in which such losses are due shall be billed by Southwestern to the Customer to adjust the end-of-month loss energy balance to zero (0) megawatthours and the Customer shall be obliged to purchase such energy at the following rates:

Months associated with charge	Rate per kilowatthour
March, April, May, October, November, December	\$0.15
January, February, June, July, August, September	0.30

4.1.4. Real Power Losses delivered to Southwestern by the Customer in excess of the losses due during the month shall be purchased by Southwestern from the Customer at a rate per megawatthour equal to Southwestern's rate per megawatthour for Supplemental Peaking Energy, as set forth in Southwestern's then-effective Rate Schedule for Hydro Peaking Power to adjust such hourly end-of-month loss energy balance to zero (0) megawatthours.

4.2. Peaking Energy Schedule Submission Time

Southwestern's Peaking Energy Schedule Submission Time is on or before 2:30 p.m. Central Prevailing Time (CPT), as adjusted by the Administrator, Southwestern, in accordance with Section 4.2.2 in this Rate Schedule, of the day preceding the day for the delivery of Peaking Energy. The Peaking Energy Schedule Submission Time supersedes the Peaking Energy schedule submission time provided in the Customer's Power Sales Contract, pursuant to Section 4.2.1 of this Rate Schedule.

4.2.1 Applicability of Peaking Energy Schedule Submission Time

The Peaking Energy Schedule Submission Time shall apply to the scheduling of Peaking Energy. The Peaking Energy Schedule Submission Time shall not apply to the scheduling of Supplemental Peaking Energy or to Contract Support Arrangements.

4.2.2 Procedure for Adjusting the Peaking Energy Schedule Submission Time

Not more than once annually, the Peaking Energy Schedule Submission Time of 2:30 p.m. CPT, as noted in Section 4.2 of this Rate Schedule, may be adjusted by the Administrator, Southwestern, to a time no earlier than 2:00 p.m. CPT and no later than 3:00 p.m. CPT.

4.2.2.1 Determination of Need to Adjust the Peaking Energy Schedule Submission Time

The Administrator, Southwestern, will make a determination on the need to adjust the Peaking Energy Schedule Submission Time based on Southwestern's studies involving

financial analysis, regional energy market conditions, and/or operational considerations.

4.2.2.2 Notification of Peaking Energy Schedule Submission Time Adjustment

The Administrator, Southwestern, will notify customers of the determination to adjust the Peaking Energy Schedule Submission Time in writing no later than 30 calendar days prior to the effective date of the Peaking Energy Schedule Submission Time adjustment.

[FR Doc. 2019-12753 Filed 6-14-19; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Western Area Power Administration

2025 Resource Pool—Sierra Nevada Customer Service Region

AGENCY: Western Area Power Administration, DOE.

ACTION: Final power allocations from Central Valley and Washoe Projects.

SUMMARY: Western Area Power Administration (WAPA) announces the final 2025 Resource Pool allocations from the Central Valley and Washoe Projects under its 2025 Power Marketing Plan (Marketing Plan) for the Sierra Nevada Customer Service Region (SNR). This notice includes a summary of the comments received on WAPA’s proposed 2025 Resource Pool allocations and WAPA’s responses.

DATES: The final 2025 Resource Pool allocations begin July 17, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Sandee Peebles, Public Utilities Specialist, Western Area Power Administration, Sierra Nevada Customer Service Region, 114 Parkshore Drive, Folsom, CA 95630–4710, (916) 353–4454, peebles@wapa.gov.

SUPPLEMENTARY INFORMATION:

Background

WAPA published the Marketing Plan on August 15, 2017 (82 FR 38675) to define how SNR will market hydropower from the Central Valley and Washoe projects beginning January 1, 2025, and ending December 31, 2054. SNR’s current marketing plan and contracts expire on December 31, 2024. As part of the Marketing Plan, SNR will withdraw 2 percent of the existing marketable resource from existing customers, also known as Base

Resource, to create a resource pool. WAPA is marketing the 2-percent resource pool to eligible preference entities.

WAPA published the Call for 2025 Resource Pool Applications in the **Federal Register** on March 8, 2018 (83 FR 9851), and applications were due by May 7, 2018. On July 13, 2018, WAPA extended the deadline to file applications to August 13, 2018 (83 FR 32664). In response to the Call for 2025 Resource Pool Applications, WAPA received 37 applications. After reviewing and considering the applications, WAPA published the Proposed 2025 Resource Pool Allocations in the **Federal Register** on February 12, 2019 (84 FR 3441) and opened a 30-day comment period. The comment period ended on March 14, 2019. Summaries of the comments received and WAPA’s responses are provided below. After considering all comments, WAPA has finalized the proposed power allocations as discussed herein.

Responses to Comments Received on the Proposed 2025 Resource Pool Allocations

During the comment period, WAPA received three letters commenting on the proposed allocations from the 2025 Resource Pool. WAPA reviewed and

considered all comments made. Summaries of the comments and responses are provided below.

Comment: All commenters expressed appreciation and support for the proposed 2025 Resource Pool allocations.

Response: WAPA notes the comments of support for its 2025 Resource Pool allocations.

Comment: All commenters requested additional allocations if additional Base Resource becomes available.

Response: WAPA will allocate any additional available power, as discussed below, in the Additional Base Resource section.

Final 2025 Resource Pool Allocations

The final 2025 Resource Pool allottees are listed below. The allocations are expressed as percentages of the Base Resource with an estimated megawatt-hour (MWh) amount of each allocation. The estimated MWh for each allocation assumes an estimated average annual Base Resource of 3,342,000 MWh and are rounded to the nearest MWh. The actual amount of Base Resource a customer will receive will vary hourly, daily, monthly, and annually depending on hydrology and other constraints governing Central Valley Project operations. The final allocations are as follows:

Allottee	Base Resource allocation (%)	Estimated MWh
Army Air Force Exchange	0.03960	1,323
California State University, Sacramento	0.01106	370
Cawelo Water District	0.00373	125
Eastside Power Authority	0.00362	121
Fallon, City of	0.01988	664
Hoop Valley Tribe	0.00158	53
Kirkwood Meadows Public Utilities District	0.03793	1,268
Lower Tule Irrigation District	0.00197	66
Merced Irrigation District	0.10079	3,368
Modesto Irrigation District	0.30470	10,183
Monterey Bay Community Power	0.35347	11,813
Orange Cove Irrigation District	0.02382	796
Placer County Water Agency	0.00394	132
Reclamation District 108	0.00072	24
Regents of the University of California	0.14688	4,909
Roseville, City of	0.00979	327
Sacramento Municipal Utility District	0.01735	580
Santa Clara Water District	0.00365	122
Silicon Valley Clean Energy Authority	0.32467	10,850
Sonoma County Water Agency	0.00360	120
Stockton, Port of	0.01155	386
Truckee Donner Public Utility District	0.03716	1,242
Turlock Irrigation District	0.32956	11,014
University of California, Davis	0.01949	651
Water Resources, California Department of	0.14398	4,812
Woodland Davis Clean Water Agency	0.04371	1,461
Zone 7, Alameda County Flood Control & Water Conservation District	0.00180	60
	2.00000	66,840

Additional Base Resource

Under the Marketing Plan, there may be future opportunities for entities to receive a Base Resource allocation from WAPA, for instance:

1. If an allocation is withdrawn because an allottee or an existing customer is unable to execute a contract or secure transmission arrangements for the delivery of power by the prescribed dates.

2. A customer surrenders an allocation.

3. An allottee's or existing customer's base resource allocation is greater than its need.

If additional base resource is available for reallocation prior to the creation of the next resource pool in 2040, WAPA, at its discretion and sole determination, reserves the right to reallocate the additional base resource through bilateral negotiations. WAPA also reserves the right to offer any additional base resource to (1) eligible entities who submitted applications during the 2025 Call for Applications, (2) existing customers, (3) new preference entities, or (4) any entity on a short-term basis.

Contracting Process

SNR will offer existing customers 98 percent of their current base resource allocations. For existing customers who received a resource pool allocation, the additional allocation will be included with their remaining base resource allocations.

After the effective date of this notice, SNR will begin the contracting process. WAPA will send all existing customers and new allottees a *pro forma* electric service contract to purchase the base resource. All existing customers and new allottees must execute and return SNR's *pro forma* electric service contract within 6 months of the date of WAPA's letter submitting the *pro forma* contract, unless otherwise agreed to in writing by SNR. SNR reserves the right to withdraw and reallocate any power allocation if an existing customer or allottee does not execute the electric service contract within the 6-month period. The date of initial service under these contracts is January 1, 2025, and these contracts will remain in effect until midnight of December 31, 2054.

SNR solely determines the terms, conditions, rates, or charges of its power contracts. SNR will work with existing customers and new allottees to develop customized products, if requested, to meet their needs. Each existing customer and new allottee is responsible for obtaining transmission arrangements for delivery of power to its load. Upon request, SNR may assist in

obtaining transmission arrangements for delivery of power; however, it is the customer's or allottee's ultimate responsibility to secure necessary transmission arrangements.

Authorities

The Marketing Plan, published in the **Federal Register** (82 FR 38675) on August 15, 2017, was established under the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*); the Reclamation Act of June 17, 1902 (Pub. L. 57-161, 32 Stat. 388), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and other acts specifically applicable to the projects involved. Allocating power from the resource pool falls within the Marketing Plan and is covered by this authority.

Regulatory Procedure Requirements

Environmental Compliance

In accordance with DOE National Environmental Policy Act Implementing Procedures (10 CFR 1021), WAPA has determined this action falls within a class of action B4.1 contracts, policies, marketing, and allocation plans for electric power, in Appendix B to Subpart D to Part 1021—Categorical Exclusion Applicable to Specific Agency Actions.

Determination Under Executive Order 12866

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Dated: June 4, 2019.

Mark A. Gabriel,

Administrator.

[FR Doc. 2019-12751 Filed 6-14-19; 8:45 am]

BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2019-0050; FRL-9994-71]

Pesticide Emergency Exemptions; Agency Decisions and State and Federal Agency Crisis Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted emergency exemptions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for use of pesticides as listed in this notice. The exemptions were granted during the period October

1, 2018 to March 30, 2019, except for one granted in September 2018, to control unforeseen pest outbreaks. The item for the exemption granted in September 2018 was issued to the Wyoming Department of Agriculture for the use of indaziflam on rangeland, pastures, and areas subject to the conservation reserve program to control Medusahead and Ventenata. From the previous notice for this exemption, published in the notice for pesticide emergency exemption decisions from the February 14, 2019 **Federal Register** (84 FR 4063) (FRL-9987-70), the effective dates are corrected to be September 14, 2018 to September 14, 2019.

FOR FURTHER INFORMATION CONTACT:

Michael L. Goodis, Director, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: RDfRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed at the end of the emergency exemption.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2019-0050, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room

is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

II. Background

EPA has granted emergency exemptions to the following State and Federal agencies. The emergency exemptions may take the following form: Crisis, public health, quarantine, or specific. EPA has not denied any emergency exemptions in this notice.

Under FIFRA section 18 (7 U.S.C. 136p), EPA can authorize the use of a pesticide when emergency conditions exist. Authorizations (commonly called emergency exemptions) are granted to State and Federal agencies and are of four types:

1. A "specific exemption" authorizes use of a pesticide against specific pests on a limited acreage in a particular State. Most emergency exemptions are specific exemptions.
2. "Quarantine" and "public health" exemptions are emergency exemptions issued for quarantine or public health purposes. These are rarely requested.
3. A "crisis exemption" is initiated by a State or Federal agency (and is confirmed by EPA) when there is insufficient time to request and obtain EPA permission for use of a pesticide in an emergency.

EPA may deny an emergency exemption: If the State or Federal agency cannot demonstrate that an emergency exists, if the use poses unacceptable risks to the environment, or if EPA cannot reach a conclusion that the proposed pesticide use is likely to result in "a reasonable certainty of no harm" to human health, including exposure of residues of the pesticide to infants and children.

If the emergency use of the pesticide on a food or feed commodity would result in pesticide chemical residues, EPA establishes a time-limited tolerance meeting the "reasonable certainty of no harm standard" of the Federal Food, Drug, and Cosmetic Act (FFDCA).

In this document: EPA identifies the State or Federal agency granted the exemption, the type of exemption, the pesticide authorized and the pests, the crop or use for which authorized, number of acres (if applicable), and the duration of the exemption. EPA also gives the **Federal Register** citation for the time-limited tolerance, if any.

III. Emergency Exemptions

A. U.S. States and Territories

Alabama

Department of Agriculture and Industries

Specific exemptions: EPA authorized the use of the insecticide sulfoxaflor on a maximum of 45,000 acres of sorghum (grain and forage) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.668(b). Effective April 1, 2019 to October 31, 2019.

EPA authorized the use of the insecticide sulfoxaflor on a maximum of 75,000 acres of cotton fields to control tarnished plant bug (*Lygus lineolaris*). Permanent tolerances in connection with a previous registration action have been established in 40 CFR 180.668(a). Effective June 1, 2019 to October 31, 2019.

Arkansas

State Plant Board

Specific exemption: EPA authorized the use of the insecticide sulfoxaflor on a maximum of 420,000 acres of cotton fields to control tarnished plant bug (*Lygus lineolaris*). Permanent tolerances in connection with a previous registration action have been established in 40 CFR 180.668(a). Effective June 1, 2019 to October 31, 2019.

California

Department of Pesticide Regulation

Specific exemptions: EPA authorized the use of the insecticide sulfoxaflor on a maximum of 28,000 acres of strawberry fields to control Western tarnished plant bugs (*Lygus bugs*). A permanent tolerance in connection with a previous registration action has been established in 40 CFR 180.668(a). Effective October 22, 2018 to October 22, 2019.

EPA authorized the use of the insecticide sulfoxaflor on a maximum of 77,000 acres of sorghum (grain, forage, silage and stover) and Sudangrass grown for seed to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.668(b). Effective November 8, 2018 to October 31, 2019.

EPA authorized the use of the insecticide flonicamid on a maximum of 365 acres of prickly pear cactus fruit and nopalitos (pads) to control cochineal scale insects. Time-limited tolerances in connection with this action have been established in 40 CFR 180.613(b). Effective December 21, 2018 to August 31, 2019.

EPA authorized the use of the insecticide indoxacarb on a maximum of 28,000 acres of mixed stands of alfalfa and grasses to control alfalfa weevils. Permanent tolerances are established for residues in alfalfa hay and alfalfa forage at 40 CFR 180.564(a), and time-limited tolerances in connection with this action will be established in 40 CFR 180.564(b) in grass hay and grass forage to cover any residues that may result from this use. Effective March 20, 2019 to August 31, 2019.

Quarantine exemption: EPA authorized the postharvest use of pyrethrins and piperonyl butoxide on a maximum of 250,000 acres of citrus to control Asian Citrus Psyllid (ACP), and limit the spread of Huanglongbing (HLB) vectored by ACP. Effective November 21, 2018 to April 9, 2021.

Florida

Department of Agriculture and Consumer Services

Specific exemptions: EPA authorized the use of streptomycin and oxytetracycline on a maximum of 330,254 acres of citrus to manage Huanglongbing (HLB) or citrus greening disease caused by the bacteria, *Candidatus Liberibacter Asiaticus*. Time-limited tolerances in connection with these actions have been established at 40 CFR 180.337(b) (oxytetracycline) and 180.245(b) (streptomycin). Effective December 31, 2018 to December 31, 2019.

EPA authorized the use of the insecticide clothianidin on a maximum of 125,376 acres of immature (3 to 5 years old) citrus trees to manage the transmission of Huanglongbing (HLB) disease vectored by the Asian citrus psyllid. A time-limited tolerance in connection with this action was established in 40 CFR 180.668(b). Effective January 1, 2019 to October 31, 2019.

Georgia

Department of Agriculture

Specific exemption: EPA authorized the use of the insecticide sulfoxaflor on a maximum of 50,000 acres of sorghum (grain and forage) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.668(b). Effective May 1, 2019 to December 1, 2019.

Idaho

Department of Agriculture

Specific exemption: EPA authorized the use of the herbicide pyridate on a maximum of 9,500 acres of mint for postemergence control of herbicide-

resistant annual weeds such as redroot pigweed, *Amaranthus retroflexus* and other broadleaf weeds. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a). Effective June 20, 2019 to August 10, 2019.

Indiana

Office of the Indiana State Chemist

Specific exemption: EPA authorized the use of herbicide pyridate on a maximum of 11,200 acres of mint for postemergence control of herbicide-resistant annual weeds such as redroot pigweed, *Armaranthus retroflexus* and other broadleaf weeds. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a). Effective May 18, 2019 to August 31, 2019.

Kansas

Department of Agriculture

Specific exemption: EPA authorized the use of sulfoxaflor on a maximum of 2,850,000 acres of sorghum (grain and forage) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.668(b). Effective April 1, 2019 to November 30, 2019.

Kentucky

Department of Agriculture

Specific exemption: EPA authorized the use of flupyradifurone on a maximum of 1,500 acres of sweet sorghum (forage and syrup) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.679(b). Effective May 8, 2019 to November 15, 2019.

Louisiana

Department of Agriculture

Specific exemptions: EPA authorized the use of the insecticide sulfoxaflor on a maximum of 180,000 acres of sorghum (grain and forage) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.668(b). Effective April 1, 2019 to October 31, 2019.

EPA authorized the use of the insecticide sulfoxaflor on a maximum of 175,000 acres of cotton fields to control tarnished plant bug (*Lygus lineolaris*). Permanent tolerances in connection with a previous registration action have been established in 40 CFR 180.668(a). Effective April 1, 2019 to October 31, 2019.

Michigan

Department of Agriculture and Rural Development

Specific exemption: EPA authorized the use of the herbicide pyridate on a maximum of 1,250 acres of mint for postemergence control of herbicide-resistant annual weeds such as redroot pigweed, *Armaranthus retroflexus* and other broadleaf weeds. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a). Effective May 18, 2019 to August 31, 2019.

Mississippi

Department of Agriculture and Commerce

Specific exemptions: EPA authorized the use of the insecticide sulfoxaflor on a maximum of 115,000 acres of sorghum (grain and forage) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.668(b). Effective May 1, 2019 to October 31, 2019.

EPA authorized the use of the insecticide sulfoxaflor on a maximum of 750,000 acres of cotton fields to control tarnished plant bug (*Lygus lineolaris*). Permanent tolerances in connection with a previous registration action have been established in 40 CFR 180.668(a). Effective June 1, 2019 to October 31, 2019.

Missouri

Department of Agriculture

Specific exemption: EPA authorized the use of the insecticide sulfoxaflor on a maximum of 85,000 acres of sorghum (grain and forage) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.668(b). Effective March 27, 2019 to November 30, 2019.

EPA authorized the use of the insecticide sulfoxaflor on a maximum of 241,500 acres of cotton fields to control tarnished plant bug (*Lygus lineolaris*). Permanent tolerances in connection with a previous registration action have been established in 40 CFR 180.668(a). Effective June 1, 2019 to October 31, 2019.

Montana

Department of Agriculture

Specific exemption: EPA authorized the use of the fungicide ethaboxam as a seed treatment for field peas to control the fungal disease-causing organism *Aphanomyces euteiches* on field pea seed sufficient to plant 26,250 acres of field peas. This is a non-food/feed use

so tolerances were not needed. Effective February 1, 2019 to December 31, 2019.

Oregon

Department of Agriculture

Specific exemption: EPA authorized the use of the herbicide pyridate on a maximum of 5,200 acres of mint for postemergence control of herbicide-resistant annual weeds such as redroot pigweed, *Armaranthus retroflexus* and other broadleaf weeds. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a). Effective June 20, 2019 to August 10, 2019.

Pennsylvania

Department of Agriculture

Specific exemption: EPA authorized the use of the insecticide etofenprox for use in mushroom cultivation on up to 16 million square feet (equivalent to 2,000 mushroom houses) to control Sciarid and Phorid fly species. Tolerances in connection with a previous action have been established in 40 CFR 180.620(a), to cover any residues as a result of this emergency exemption use. Effective February 7, 2019 to February 7, 2020.

Tennessee

Department of Agriculture

Specific exemption: EPA authorized the use of flupyradifurone on a maximum of 750 acres of sweet sorghum (forage and syrup) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.679(b). Effective June 1, 2019 to November 15, 2019.

EPA authorized the use of the insecticide sulfoxaflor on a maximum of 285,000 acres of cotton fields to control tarnished plant bug (*Lygus lineolaris*). Permanent tolerances in connection with a previous registration action have been established in 40 CFR 180.668(a). Effective June 1, 2019 to September 30, 2019.

Texas

Department of Agriculture

Crisis exemption: EPA authorized the use of the insecticide thiamethoxam on a maximum of 100,000 acres of commercial rice fields to control rice delphacid (*Tagosodes orizicolus*). Time-limited tolerances for thiamethoxam in connection with this action will be established in 40 CFR 180.565(b). Section 18 use of thiamethoxam on rice results in potential clothianidin (a major metabolite of thiamethoxam) residues, that when combined with the residues

from the Section 3 use of clothianidin on rice, requires an increase in the tolerance for residues of clothianidin in rice. Therefore, a time-limited tolerance will be established in 40 CFR 180.586(b) to cover residues of clothianidin. Effective October 31, 2018 to November 9, 2018.

Quarantine exemption: EPA authorized the use of the insecticide thiamethoxam on a maximum of 190,000 acres of commercial rice fields to control rice delphacid (*Tagosodes orizicolus*). Time-limited tolerances for thiamethoxam in connection with this action will be established in 40 CFR 180.565(b). Section 18 use of thiamethoxam on rice results in potential clothianidin (a major metabolite of thiamethoxam) residues, that when combined with the residues from the section 3 use of clothianidin on rice, requires an increase in the tolerance for residues of clothianidin in rice. Therefore, a time-limited tolerance will be established in 40 CFR 180.586(b) to cover residues of clothianidin. Effective March 3, 2019 to November 9, 2021.

Specific exemptions: EPA authorized the use of the insecticide sulfoxaflor on a maximum of 5.5 million acres of cotton fields to control tarnished plant bug (*Lygus lineolaris*). Permanent tolerances in connection with a previous registration action have been established in 40 CFR 180.668(a). Effective March 1, 2019 to October 31, 2019.

EPA authorized the use of the insecticide sulfoxaflor on a maximum of 3,000,000 acres of sorghum (grain and forage) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.668(b). Effective April 1, 2019 to November 30, 2019.

Virginia

Department of Agriculture and Consumer Services

Specific exemptions: EPA authorized the use of the insecticide sulfoxaflor on a maximum of 16,591 acres of sorghum (grain and forage) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.668(b). Effective March 27, 2019 to November 30, 2019.

EPA authorized the use of the insecticide sulfoxaflor on a maximum of 100,000 acres of cotton fields to control tarnished plant bug (*Lygus lineolaris*). Permanent tolerances in connection with a previous registration action have been established in 40 CFR 180.668(a).

Effective June 1, 2019 to October 1, 2019.

Washington

Department of Agriculture

Specific exemption: EPA authorized the use of the herbicide pyridate on a maximum of 16,000 acres of mint for postemergence control of herbicide-resistant annual weeds such as redroot pigweed, *Amaranthus retroflexus* and other broadleaf weeds. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a). Effective May 21, 2019 to August 31, 2019.

Wisconsin

Department of Agriculture

Specific exemption: EPA authorized the use of the herbicide pyridate on a maximum of 3,100 acres of mint for postemergence control of herbicide-resistant annual weeds such as redroot pigweed, *Amaranthus retroflexus* and other broadleaf weeds. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a). Effective May 18, 2019 to August 31, 2019.

B. Federal Departments and Agencies

Agriculture Department

Animal and Plant Health Inspection Service

Quarantine exemptions: EPA authorized the use of a mixture of potassium peroxymonosulfate and propylene glycol for disinfection of nonporous surfaces associated with poultry facilities infected with highly pathogenic avian influenza virus. Effective January 20, 2019 to January 20, 2022.

EPA authorized the use of citric acid to treat for disinfection of porous and nonporous surfaces contaminated with foot-and-mouth disease virus, African swine fever virus, low pathogenic avian influenza virus, and high pathogenic avian flu influenza virus. Effective February 6, 2019 to February 6, 2022.

Authority: 7 U.S.C. 136 *et seq.*

Dated: June 10, 2019.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2019-12745 Filed 6-14-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9995-20-Region 10]

Reissuance of NPDES General Permit for Offshore Seafood Processors in Alaska (AKG524000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reissuance of final NPDES General Permit.

SUMMARY: The Director of the Water Division, EPA Region 10, is reissuing a National Pollutant Discharge Elimination System (NPDES) General Permit to Offshore Seafood Processors in Alaska. The General Permit authorizes discharges of seafood processing waste from facilities (also referred to as "vessels") that discharge at least 3 nautical miles (NM) or greater from the Alaska shore as delineated by mean lower low water (MLLW) or a closure line; and which engage in the processing of fresh, frozen, canned, smoked, salted or pickled seafood, the processing of mince, or the processing of meal, paste and other secondary by-products.

DATES: The issuance date of the General Permit is June 17, 2019. The General Permit will become effective July 17, 2019.

ADDRESSES: Copies of the General Permit and Response to Comments are available upon request at the following address: USEPA Region 10, 1200 Sixth Avenue, Suite 155, WD-19-C04, Seattle, WA 98101-3188. Electronic requests may be mailed to: Washington.audrey@epa.gov.

FOR FURTHER INFORMATION CONTACT: Permit documents may be found on the EPA Region 10 website at: <https://www.epa.gov/npdes-permits/npdes-general-permit-offshore-seafood-processors-alaska>. Copies of the general permit, Fact Sheet and Response to Comments are also available upon request. Requests may be made to Audrey Washington at (206) 553-0523 or to Joseph Ziobro at (206) 553-2723. Requests may also be electronically mailed to: washington.audrey@epa.gov, or ziobro.joseph@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

There are currently fewer than 100 permitted seafood processors that discharge effluent and operate more than 3 NM from the Alaskan shore or closure line. Most of the seafood processed on the vessels are pollock and Pacific cod. Other species have included sablefish, arrowtooth flounder, Pacific

hake, jack mackerel, Alaska plaice, Pacific Ocean perch, rockfish, sculpin, lumpsucker, skate, sole, Greenland turbot, bairdi, opilio, and king crab. The permit authorizes the discharge of seafood processing wastes that are mostly waste solids (shell, bones, skin, scales, flesh and organs), blood, body fluids, slime, oils and fats from cooking and rendering operations; disinfectants; and miscellaneous wastewaters. This Permit does not authorize the discharge of pollutants from any shore-based facilities, nor any pollutants from vessels transporting seafood processing waste solely for the purpose of dumping materials into ocean waters. The median annual waste discharged from a vessel in 2014 and 2015 was 7.1 and 6.2 million pounds, respectively.

Facilities will receive a written notification from the EPA whether permit coverage and authorization to discharge under the general permit is approved.

The draft Permit, Fact Sheet, Ocean Discharge Criteria Evaluation, and associated Permit forms were made available for a 45-day public comment from March 25, 2019 to May 9, 2019. The EPA received comments from the At-Sea Processors Association, the Groundfish Forum, and the Freezer Longline Coalition. As a result of comments, the EPA modified Section V.B.4 of the permit to reduce the number of representative pictures required quarterly from four to at least one. The EPA prepared a Response to Comment document, which is available on EPA's website at: <https://www.epa.gov/npdes-permits/npdes-general-permit-offshore-seafood-processors-alaska>.

The EPA has prepared a Biological Evaluation for this Permit action. Consultations under the Endangered Species Act between the EPA and the U.S. Fish and Wildlife Service (USFWS) have been completed. The EPA has not yet completed consultation with NMFS. On June 1, 2019, NMFS provided the EPA with an excerpt from their Draft Incidental Take Statement for the Biological Opinion (BO) on EPA's Proposed Reissuance of General Permit AKG524000 for Offshore Seafood Processors in Alaska, which included draft Reasonable and Prudent Measures (RPMs). NMFS indicated to the EPA that, while the agency would not be able to issue a final BO prior to Permit issuance, their final BO will include final RPMs for the Western Distinct Population Segment Steller Sea Lions (DPS SSLs). As such, the EPA has incorporated the draft RPMs from NMFS as final permit conditions, resulting in changes to the Daily Sea Surface Visual

Monitoring Requirements and a change to an Effluent Limitation Requirement. The Sea Surface Visual Monitoring Requirements in Section VI.C. of the Permit have been modified to include a required Steller sea lion visual monitoring program for any vessel discharging unground waste. The Effluent Limitation Requirement at V.A.3. has been modified to require that in all waters west of 144° West longitude, the discharge of any unground waste must cease whenever Steller sea lion(s) are present within 250 meters in any direction of the vessel(s).

The EPA is issuing the final permit pending completion of ESA consultation, consistent with Section 7(d) of the Endangered Species Act. The EPA does not believe that issuing this permit pending the completion of consultation poses interim risks of concern to Western DPS SSLs, and if further consultation with NMFS were to reveal new information that the EPA determines warrants modification to the permit to protect listed species or critical habitat, the EPA has authority to take appropriate action to modify the permit pursuant to 40 CFR 122.62(a)(2).

II. Other Legal Requirements

This action is not significant and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866, *Regulatory Planning and Review*, and 13563, *Improving Regulation and Regulatory Review*.

Dated: June 7, 2019.

Angela Chung,

Associate Director, Water Division, Region 10.
[FR Doc. 2019-12765 Filed 6-14-19; 8:45 am]

BILLING CODE 6560-50-P

EXPORT-IMPORT BANK

[Public Notice: 2019-3017]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Banks of the United States (EXIM), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. This collection of information is necessary to determine eligibility of the

underlying export transaction for EXIM insurance coverage.

DATES: Comments must be received on or before July 17, 2019 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on WWW.REGULATIONS.GOV (EIB 92-41) or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW, Washington, DC 20038, Attn: OMB 3048-0019. The information collection tool can be reviewed at: <https://www.exim.gov/sites/default/files/pub/pending/eib92-41.pdf>.

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 92-41
Application for Financial Institution Short-Term, Single-Buyer Insurance.

OMB Number: 3048-0019.

Type of Review: Renewal.

Need and Use: The "Application for Financial Institution Short-term Single-Buyer Insurance" form will be used by financial institution applicants to provide EXIM with the information necessary to determine if the subject transaction is eligible for EXIM insurance coverage.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 215.

Estimated Time per Respondent: 1.6 hours.

Annual Burden Hours: 344.

Frequency of Reporting of Use: Annual.

Government Expenses:

Reviewing Time per Year: 1,290 hours.

Average Wages per Hour: \$42.50.

Average Cost per Year: \$54,825 (time*wages).

Benefits and Overhead: 20%.

Total Government Cost: \$65,790.

Bassam Doughman,

IT Specialist.

[FR Doc. 2019-12687 Filed 6-14-19; 8:45 am]

BILLING CODE 6690-01-P

EXPORT-IMPORT BANK

[Public Notice 2019-3016]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Bank of the United States (EXIM), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed

information collection, as required by the paperwork Reduction Act of 1995.

EXIM enables U.S. exporters to compete fairly in foreign markets on the basis of price and product by neutralizing the effect of export credit insurance and guarantees offered by foreign governments and by absorbing credit risks that the private section will not accept. This collection of information is necessary to determine eligibility of the applicant for EXIM support.

DATES: Comments should be received on or before July 17, 2019 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on WWW.REGULATIONS.GOV (EIB 95–10) or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW, Washington, DC 20038, Attn: OMB 3048–0013. The application can be viewed at <http://www.exim.gov/sites/default/files/pub/pending/eib95-10all.pdf>.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 95–10 Application for Long Term Loan or Guarantee.

OMB Number: 3048–0013.

Type of Review: Renewal.

Need and Use: The information collected will provide information needed to determine compliance and creditworthiness for transaction requests submitted to the Export Import Bank under its long term guarantee and direct loan programs.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 84.

Estimated Time per Respondent: 1.75 hours.

Annual Burden Hours: 147 hours.

Frequency of Reporting or Use: As needed.

Government Expenses:

Reviewing Time per Year: 147 hours.

Average Wages per Hour: \$42.50.

Average Cost per Year: \$6,248 (time*wages).

Benefits and Overhead: 20%.

Total Government Cost: \$7,498.

Bassam Doughman,

IT Specialist.

[FR Doc. 2019–12683 Filed 6–14–19; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

[Public Notice 2019–3015]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Bank of the United States (EXIM), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. The Application for Exporter Short Term Single Buyer Insurance form will be used by entities involved in the export of U.S. goods and services, to provide EXIM with the information necessary to obtain legislatively required assurance of repayment and fulfills other statutory requirements. Export-Import Bank customers will be able to submit this form on paper or electronically.

DATES: Comments must be received on or before July 17, 2019 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on WWW.REGULATIONS.GOV (EIB 92–64) or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW, Washington, DC 20038, Attn: OMB 3048–0018. The application can be reviewed at: <https://www.exim.gov/sites/default/files/pub/pending/eib92-64.pdf>.

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 92–64 Application for Exporter Short Term Single Buyer Insurance.

OMB Number: 3048–0018.

Type of Review: Renewal.

Need and Use: The information requested enables the applicant to provide EXIM with the information necessary to obtain legislatively required assurance of repayment and fulfills other statutory requirements.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 310.

Estimated Time per Respondent: 1.5 hours.

Annual Burden Hours: 465 hours.

Frequency of Reporting of Use: As needed.

Government Costs:

Reviewing Time per Year: 465 hours.

Average Wages per Hour: \$42.50.

Average Cost per Year: \$19,762.5 (time*wages).

Benefits and Overhead: 20%.
Total Government Cost: \$23,715.

Bassam Doughman,

IT Specialist.

[FR Doc. 2019–12681 Filed 6–14–19; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1079]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before August 16, 2019. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email PRA@fcc.gov and to Nicole.Ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418-2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-1079.

Title: Section 15.240, Radio

Frequency Identification Equipment.

Type of Review: Extension of a currently approved collection.

Form No.: N/A.

Respondents: Business or other for-profit and Not-for-profit institutions.

Number of Respondents and

Responses: 10 respondents; 20 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 154(i), 301, 302, 303(e), 303(f) and 303(r).

Total Annual Burden: 200 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this 60 day comment period in order to obtain the three year clearance. Section 15.240 requires each grantee of certification for Radio Frequency Identification (RFID) Equipment to register the location of the equipment/devices its markets with the Commission. The information that the grantee must supply to the Commission when registering the device(s) shall include the name, address and other pertinent contact information of users, the geographic coordinates of the operating location, and the FCC identification number(s) of the equipment. The improved RFID equipment could benefit commercial shippers and have significant homeland security benefits by enabling the entire contents of shipping containers to be easily and immediately identified, and by allowing a determination of whether tampering with their contents has occurred during shipping.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2019-12718 Filed 6-14-19; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Thursday, June 20, 2019 at the Conclusion of the Open Meeting.

PLACE: 1050 First Street NE, Washington, DC.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Compliance matters pursuant to 52 U.S.C. 30109.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

CONTACT PERSON FOR MORE INFORMATION:

Judith Ingram, Press Officer, Telephone: (202) 694-1220.

Laura E. Sinram,

Acting Secretary and Clerk of the Commission.

[FR Doc. 2019-12933 Filed 6-13-19; 4:15 pm]

BILLING CODE 6715-01-P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Notice of Proposed Stock Redemption (FR 4008; OMB No. 7100-0131).

DATES: Comments must be submitted on or before August 16, 2019.

ADDRESSES: You may submit comments, identified by FR 4008, by any of the following methods:

- *Agency Website:* <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx>.

- *Email:* regs.comments@federalreserve.gov. Include OMB number in the subject line of the message.

- *Fax:* (202) 452-3819 or (202) 452-3102.

- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and

Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons.

Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street NW (between 18th and 19th Streets NW), Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments. Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at <http://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of

information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

Report title: Notice of Proposed Stock Redemption.

Agency form number: FR 4008.

OMB control number: 7100-0131.

Frequency: Event-generated.

Respondents: Bank holding companies.

Estimated number of respondents: 8.

Estimated average hours per response: 15.5 hours.

Estimated annual burden hours: 124 hours.

General description of report: The Bank Holding Company Act (BHC Act) and Board's Regulation Y require a bank holding company (BHC) to seek the prior approval of the Board before purchasing or redeeming its equity securities in certain circumstances. Due to the limited information that a BHC must provide in connection with any such request, there is no required reporting form (the FR 4008 designation is for internal purposes only), and each request for prior approval must be filed

as a notification with the Reserve Bank that has direct supervisory responsibility for the requesting BHC. The Federal Reserve uses the information provided in the redemption notice to supervise BHCs.

Legal authorization and confidentiality: The FR 4008 is authorized pursuant to sections 5(b) and (c) of the BHC Act (12 U.S.C. 1844(b) and (c)). Section 5(b) of the BHC Act, as amended by section 616 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),¹ generally authorizes the Board to, among other things, issue capital regulations that are necessary to administer and carry out the purposes of the BHC Act and prevent evasions thereof. Section 5(c) of the BHC Act generally authorizes the Board to, among other things, require reports from BHCs on a range of issues. The FR 4008 is required for some BHCs to obtain the benefit of being able to purchase or redeem their equity securities.

Individual respondents may request that data submitted be kept confidential on a case-by-case basis. If a respondent requests confidential treatment, the Board will determine whether the information is entitled to confidential treatment on an ad hoc basis. Requests may include information related to the BHC's business operations, such as terms and sources of the funding for the redemption and pro forma balance sheets. This information may be kept confidential under exemption 4 of the Freedom of Information Act, which protects privileged or confidential commercial or financial information.²

Board of Governors of the Federal Reserve System, June 11, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019-12680 Filed 6-14-19; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Disclosure Requirements of Regulation Y Associated with Minimum Requirements for Appraisal

Management Companies (FR HY-5; OMB No. 7100-0370).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Board may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Report title: Disclosure Requirements of Regulation Y Associated with Minimum Requirements for Appraisal Management Companies.

Agency form number: FR HY-5.

OMB control number: 7100-0370.

Frequency: Event generated.

Respondents: Federally regulated and state regulated Appraisal Management Companies (AMCs) and U.S. states.

Estimated number of respondents: 3,136.

Estimated average hours per response: Section 225.192, 0.08 hours; Section 225.193(a), 40 hours; Section 225.193(b), 1 hour; Section 225.195, 1 hour; Section 225.196, 1 hour.

Estimated annual burden hours: Section 225.192, 237 hours; Section 225.193(a), 2,040 hours; Section

¹ Public Law 111-203, 124 Stat. 1376 (2010).

² 5 U.S.C. 552(b)(4).

225.193(b), 1,174 hours; Section 225.195, 11 hours; Section 225.196, 51 hours.

General description of report: The Board's disclosure requirements associated with minimum requirements for AMCs are found in sections 225.192, 225.193, 225.195, and 225.196 of the Board's Regulation Y.

Section 225.192(b), Written Notice of Appraiser Removal from Network or Panel, provides that an appraiser in an AMC's network or panel is deemed to remain a part of the AMC's appraiser panel until the AMC (1) sends a written notice to the appraiser removing the appraiser with an explanation or (2) receives a written notice from the appraiser asking to be removed or a notice of the death or incapacity of the appraiser.

Participating states must have an AMC registration and supervision program. Pursuant to section 225.193(a), each participating state must establish and maintain within its appraiser certifying and licensing agency a registration and supervision program with the legal authority and mechanisms to, among other things, review and approve or deny an AMC's application for initial registration; require AMCs to submit reports, information, and documents; and report violations of appraisal-related laws, regulations, or orders, and disciplinary and enforcement actions to the Appraisal Subcommittee.

Section 225.193(b) requires each participating state to require non-federally regulated AMCs to register with the state appraiser certifying and licensing agency.

Section 225.195(c) requires a federally regulated AMC to report to the state or states in which it operates the information required to be submitted by the state pursuant to the Appraisal Subcommittee's policies regarding the determination of the AMC National Registry fee, including information relating to certain ownership limitations in the regulation.

Section 225.196 requires that each participating state submit to the Appraisal Subcommittee the information required to be submitted by Appraisal Subcommittee regulations or guidance concerning AMCs that operate in the state.

There are no required reporting forms associated with these information collections. No other federal law mandates these disclosure requirements. This information is not available from any other source.

Legal authorization and confidentiality: The FR HY-5 is authorized pursuant to section 1124(a)

of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), which provides that the agencies "shall jointly, by rule, establish minimum requirements to be applied by a State in the registration of [AMCs]" (12 U.S.C. 3353(a)). Section 1124(e) of the FIRREA requires that the agencies "jointly promulgate regulations for the reporting of the activities of [AMCs] to the [Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC)] in determining the payment of the annual registry fee" (12 U.S.C. 3353(e)). In addition, section 1109(a) of the FIRREA requires each participating state with an appraiser certifying and licensing agency to transmit to the ASC "[1] a roster listing individuals who have received a State certification or license . . . [2] reports on the issuance and renewal of licenses and certifications, sanctions, disciplinary actions, license and certification revocations, and license and certification suspensions on a timely basis to the national registry of the [ASC] . . . [3] [and reports on] investigations initiated and disciplinary actions taken" (12 U.S.C. 3338(a)(1)-(3)). Section 1124 of the FIRREA does not compel a state to establish an AMC registration and supervision program, nor is a penalty imposed on a state that does not establish a regulatory structure for AMCs.¹ Therefore, the FR HY-5 is voluntary for states. The FR HY-5 is mandatory for AMCs.

Because the Federal Reserve will not collect this information, confidentiality issues would normally not arise. Because the records are retained at banking organizations, the Freedom of Information Act (FOIA) will only be implicated if the Board's examiners retain a copy of the record as part of an examination or supervision of a banking institution. In that case, the records would be exempt from disclosure under exemption 8 of FOIA, which protects examination materials from disclosure (5 U.S.C. 552(b)(8)). Exemption 4 of the FOIA, which protects confidential financial information, and exemption 6 of the FOIA, which protects non-public personal information, may also be applicable (5 U.S.C. 552(b)(4) and (b)(6)).

Current actions: On March 6, 2019, the Board published a notice in the **Federal Register** (84 FR 8098) requesting public comment for 60 days on the extension, without revision, of the FR HY-5. The comment period for this notice expired on May 6, 2019. The Board did not receive any comments.

¹ 80 FR 32658 (June 9, 2015).

Board of Governors of the Federal Reserve System, June 11, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019-12679 Filed 6-14-19; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Notice of Proposed Declaration of Dividend (FR 1583; OMB No. 7100-0339).

DATES: Comments must be submitted on or before August 16, 2019.

ADDRESSES: You may submit comments, identified by *FR 1583*, by any of the following methods:

- *Agency Website:* <https://www.federalreserve.gov>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- *Email:* regs.comments@federalreserve.gov. Include OMB number in the subject line of the message.

- *Fax:* (202) 452-3819 or (202) 452-3102.

- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available on the Board's website at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons.

Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk

Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act (PRA) OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated

collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection

Report title: Notice of Proposed Declaration of Dividend.

Agency form number: FR 1583.

OMB control number: 7100-0339.

Frequency: As needed (approximately two per year, based on the average number of FR 1583 forms received annually, per respondent, for calendar years 2016 through 2018).

Respondents: Savings association subsidiaries of savings and loan holding companies (SLHCs).

Estimated number of respondents: 122.

Estimated average hours per response: 0.275 hours.

Estimated annual burden hours: 67.

General description of report: Savings association subsidiaries of SLHCs must provide prior notice of a dividend by filing form FR 1583 with the appropriate Reserve Bank. The FR 1583 requires information regarding the date of the filing and the nature and amount of the proposed dividend, as well as the names and signatures of the executive officer and secretary of the savings association that is providing the notice. The savings association subsidiary must file this prior notice at least 30 days before the proposed declaration of a dividend by its board of directors. Section 10(f) of the Home Owners' Loan Act (HOLA) provides that the 30 day period commences on the date of receipt of the complete record of the notice by the board. This notice may include a schedule proposing dividends over a period specified by the notificant, not to exceed 12 months.

Proposed revisions: The Board proposes several revisions to make the FR 1583 consistent with the format of other Board forms and to reflect the Board's regulations. Specifically, the Board is proposing the following revisions:

1. Adding an item requiring the filer to identify the "Nature of the Dividend." Board regulations permit a dividend to consist of the distribution of cash or other property, or any transaction that is substantively a

dividend, as provided by the Board (12 CFR 238.102(d)). The Reserve Bank must know the nature of the dividend to review the notice for consistency with the Board's regulations.

2. Adding an item requesting date of filing. This information is customarily requested in Board reporting forms so that the timing of filings can be tracked.

3. Deleting an item asking the filer to select whether the institution qualifies or does not qualify for expedited treatment. The Board's regulations do not provide for expedited treatment of notices of proposed declarations of dividends.

4. Deleting an item asking the filer to select whether the submission is a notice or application. The Board's regulations provide that a filer provide notice, rather than an application, to the appropriate Reserve Bank (12 CFR 238.103).

5. Deleting an item allowing institutions to attach additional information required pursuant to the Office of Thrift Supervision's regulations (12 CFR 563.143). The Board does not have analogous regulations.

6. Adding the option to submit the FR 1583 electronically by Portable Document Format. Use of electronic submissions will reduce burden on both the filer and the Board.

7. Adding two items for the printed name of the firm Executive Officer and Secretary who sign the FR 1583. This change will help Federal Reserve staff identify the individuals associated with the filing.

Legal authorization and confidentiality: The FR 1583 is mandatory and is authorized by Section 10(f) of the HOLA (12 U.S.C. 1467a(f)). The Board also has the authority to require reports from savings and loan holding companies under Section 10(a) and (b) of the HOLA (12 U.S.C. 1467a(b) and (g)). Section 10(f) of the HOLA provides that every subsidiary savings association of an SLHC shall give the Board at least 30 days' advance notice of the proposed declaration by its directors of any stock dividend.

Individual respondents may request that information submitted on the FR 1583 be kept confidential on a case-by-case basis. If a respondent requests confidential treatment, the Board will determine whether the information is entitled to confidential treatment on an ad hoc basis. The FR 1583 may include information related to the SLHC's business operations, such as terms and sources of the funding for dividends and pro forma balance sheets. This information may be kept confidential under exemption 4 of the Freedom of Information Act, which protects

privileged or confidential commercial or financial information (5 U.S.C. 552(b)(4)).

Board of Governors of the Federal Reserve System, June 12, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019-12693 Filed 6-14-19; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer (Form MSD-4; OMB No. 7100-0100) and the Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer (Form MSD-5; OMB No. 7100-0101).

DATES: The revisions are applicable as of June 1, 2019.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the

PRA Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Board may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, With Revision, of the Following Information Collections

Report title: The Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer.

Agency form number: Form MSD-4.

OMB control number: 7100-0100.

Effective Date: June 1, 2019.

Frequency: On occasion; a municipal securities dealer (MSD) that is regulated by the Board is required to file Form MSD-4 within ten days of a municipal securities principal's or representative's association with that MSD.

Respondents: MSDs regulated by the Board that are, or are the subsidiary of, a state member bank (SMB), a bank holding company (BHC), a savings and loan holding company (SLHC), or a foreign dealer bank.

Estimated number of respondents: 18.

Estimated average hours per response: 1.

Estimated annual burden hours: 18.

General description of report: The Municipal Securities Rulemaking Board (MSRB) rule G-7, Information Concerning Associated Persons, requires persons who are or seek to be associated with an MSD as a municipal securities principal (a person performing supervisory functions) or representative (a person engaged in underwriting, trading, or sales of municipal securities or furnishing financial advice to issuers in connection with the issuance of municipal securities) to provide certain background information to the MSD. The rule also requires MSDs to obtain and report this information to the appropriate regulatory agency (ARA). Board-regulated MSDs must report to the Board information required by MSRB rule G-7 using Form MSD-4. Generally, the information required by Form MSD-4 relates to employment history and professional background, including any disciplinary sanctions, as well as any claimed basis for exemption from MSRB examination requirements.

MSDs must retain copies of Form MSD-4 for each associated principal or representative during the entire term of employment and three years from the

date of termination of employment. Completed reporting forms are sent as a Portable Document Format (PDF) directly to the Board via email.

Report title: The Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer.

Agency form number: Form MSD-5.

OMB control number: 7100-0101.

Effective Date: June 1, 2019.

Frequency: On occasion; an MSD that is regulated by the Board is required to file Form MSD-5 within 30 calendar days after a principal or representative terminates association with that MSD.

Respondents: MSDs regulated by the Board that are, or are the subsidiary of, an SMB, a BHC, an SLHC, or a foreign dealer bank.

Estimated number of respondents: 19.

Estimated average hours per response: 0.25.

Estimated annual burden hours: 5.

General description of report: Form MSD-5 is filed by a Board-regulated MSD when any employee previously registered as a municipal securities principal or representative is terminated for any reason. Form MSD-5 requires information such as the reason for termination and whether any investigations or actions by agencies or self-regulatory organizations (SROs) involving the associated person occurred during the period of employment.

Any SMB, BHC, SLHC, or foreign dealer bank registered as an MSD will continue to be required to file this event-generated report form for any employees that are terminated. MSDs must retain copies of the Form MSD-5 reports for three years from the date of termination of employment. Completed reporting forms are sent as a PDF directly to the Board via email.

Legal authorization and confidentiality: Sections 15B(a)-(b) and 17 of the Securities Exchange Act (the Act) authorize the SEC and MSRB to promulgate rules requiring MSDs to file reports about associated persons with the SEC and the ARA (15 U.S.C. 78o-4(a)-(b) and (q)). In addition, section 15B(c) of the Act provides that ARAs may enforce compliance with the SEC's and MSRB's rules (15 U.S.C. 78o-4(c)). Section 23(a) of the Act also authorizes the SEC, the Board, and the other ARAs to make rules and regulations in order to implement the provisions of the Act (15 U.S.C. 78w(a)). Under the Act, the Board is the ARA for an MSD that is, or is the subsidiary of, an SLHC, SMB (including its divisions or departments), or BHC (including a subsidiary bank of

the BHC if the subsidiary does not already report to another ARA or to the SEC, and any divisions, departments, or subsidiaries of that subsidiary) (15 U.S.C. 78c(a)(34)(A)(ii)). Although the Act does not specify the ARA for MSD activities of foreign banks, uninsured state branches or state agencies of foreign banks, commercial lending companies owned or controlled by a foreign bank, or Edge Act corporations (collectively referred to as “foreign dealer banks”), the Division of Market Regulation of the SEC has agreed that the Federal Reserve should examine the MSD activities of foreign dealer banks.¹ Accordingly, the Board’s collection of Form MSD–4 and Form MSD–5 for these institutions is authorized pursuant to the Act.²

In addition, the Board is authorized to require that SMBs and their departments file reports with the Board pursuant to section 11(a)(1) of the Federal Reserve Act (12 U.S.C. 248(a)(1)). Branches and agencies of foreign banks are subject to the reporting requirements of section 11(a)(1) of the Federal Reserve Act pursuant to Section 7(c)(2) of the International Banking Act (12 U.S.C. 3105(c)(2)). BHCs and their subsidiaries are required to submit reports to the Board to ensure compliance with “federal laws that the Board has specific jurisdiction to enforce” (12 U.S.C. 1844(c)(1)(ii)(II)). Section 10(b)(2) of the Home Owners’ Loan Act authorizes the Board to require SLHCs to file “such reports as may be required by the Board” and instructs that such reports “shall contain such information concerning the operations of such savings and loan holding company and its subsidiaries as the Board may require” (12 U.S.C. 1467a(b)(2)).

The obligation to file the forms with the Board is mandatory for those financial institutions for which the Board serves as the ARA, and the filing of both forms is event generated.

Generally, information provided on Form MSD–4 and Form MSD–5 may be kept confidential from the public under exemption 6 of the Freedom of Information Act (FOIA), which protects information in “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy” (5 U.S.C. 552(b)(6)). In addition, other information on Form MSD–4 and Form MSD–5, such as the

name of the MSD that filed the form, may be withheld under exemption 4 of the FOIA, if disclosure is reasonably likely to result in substantial competitive harm to the MSD (e.g., if a MSD recently hired or terminated a number of municipal securities employees, disclosing these forms could reveal competitively sensitive commercial information about that dealer) (5 U.S.C. 552(b)(4)).

The information collected on Form MSD–4 and Form MSD–5 is maintained in a “system of records” within the meaning of the Privacy Act (5 U.S.C. 552a(a)(5)). As required under the Privacy Act, the Board formally designated a system of records notice (SORN) for this information collection, which is the “BGFRS–17, FRB—Municipal or Government Securities Principals and Representatives,” located here: <https://www.federalreserve.gov/files/BGFRS-17-municipal-or-government-securities-principals-and-representatives.pdf>. Pursuant to the Privacy Act, disclosure of information that must be released under the FOIA does not violate the Privacy Act (5 U.S.C. 552a(b)(2)). However, disclosure of any confidential information that is considered exempt under the FOIA must be made in accordance with the Privacy Act (5 U.S.C. 552a(b)). Thus, the Board may make disclosures of information collected on Form MSD–4 and Form MSD–5 in accordance with the Privacy Act’s “routine use” disclosure provision, which permits the disclosure of a record for a purpose that is compatible with the purpose for which the record was collected (5 U.S.C. 552a(a)(7) and (b)(3)). The routine uses that apply to this information collection are listed in the SORN, which is available on the Board’s website at the above hyperlink. Both Form MSD–4 and Form MSD–5 are being revised to include updated Privacy Act notices.

Current actions: On March 5, 2019 the Board published a notice in the **Federal Register** (84 FR 7902) requesting public comment for 60 days on the extension, with revision, of the Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer and the Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer. The Board proposes to revise Form MSD–4 and Form MSD–5 to (1) remove the date of birth and place of birth items from the ‘Personal History of Applicant’ section on Form MSD–4 and instructions; (2) make minor revisions to the Privacy Act statements

on Form MSD–4 and Form MSD–5; and (3) remove the Privacy Act notice from the respective instructions for Form MSD–4 and Form MSD–5 (but leave the Privacy Act notice on the forms). The proposed revisions are effective as of June 1, 2019. The comment period for this notice expired on May 6, 2019. The Board did not receive any comments. The revisions will be implemented as proposed.

Board of Governors of the Federal Reserve System, June 12, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–12692 Filed 6–14–19; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with Regulation V (Fair Credit Reporting) (FR V;¹ OMB No. 7100–0308).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved

¹ See Letter from Catherine McGuire, Chief Counsel, SEC’s Division of Market Regulation, to Laura M. Homer, Assistant Director of Board S&R, June 14, 1994.

² 15 U.S.C. 780–4, 78q, and 78w.

¹ The internal Agency Tracking Number previously assigned by the Board to this information collection was “Reg V.” The Board is changing the internal Agency Tracking Number for the purpose of consistency.

collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are placed into OMB's public docket files. The Board may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Report title: Recordkeeping and Disclosure Requirements Associated with Regulation V (Fair Credit Reporting).

Agency form number: FR V.

OMB control number: 7100–0308.

Frequency: Annually, monthly, and on occasion.

Respondents: Depository institutions identified in 15 U.S.C. 1681s(b)(1)(A)(ii): (1) Regardless of size, with respect to the identity theft red flags provisions of the Board's Fair Credit Reporting Act (FCRA) regulations; and (2) with \$10 billion or less in assets and any affiliates thereof, and consumers of such institutions, with respect to enforcing the Consumer Financial Protection Bureau's (Bureau's) FCRA regulations.

Estimated number of respondents: Negative information notice, 1,450 respondents; Affiliate marketing: Notices to consumers, 1,381 respondents, and Consumer opt-out response, 1,562,835 respondents; Identity theft red flags, 2,206 respondents; Address discrepancies, 1,450 respondents; Risk-based pricing: Notice to consumers, 1,450 respondents; Furnisher duties: Policies and procedures, 1,450 respondents, and Notice of frivolous disputes to consumers, 1,450 respondents.

Estimated average hours per response: Negative information notice, 0.25 hour; Affiliate marketing: Notices to consumers, 18 hours, and Consumer opt-out response, 0.08 hour; Identity theft red flags, 37 hours; Address discrepancies, 4 hours; Risk-based pricing: Notice to consumers, 5 hours; Furnisher duties: Policies and procedures, 40 hours, and Notice of frivolous disputes to consumers, 0.23 hour.

Estimated annual burden hours: Negative information notice, 363 hours; Affiliate marketing: Notices to

consumers, 24,858 hours, and Consumer opt-out response, 125,027 hours; Identity theft red flags, 81,622 hours; Address discrepancies, 5,800 hours; Risk-based pricing: Notice to consumers, 87,000 hours; Furnisher duties: Policies and procedures, 58,000 hours, and Notice of frivolous disputes to consumers, 140,737 hours.

General description of report: The FCRA was enacted in 1970 based on a Congressional finding that the banking system is dependent on fair and accurate credit reporting.² The FCRA requires consumer reporting agencies to adopt reasonable procedures that are fair and equitable to the consumer with regard to the confidentiality, accuracy, relevancy, and proper utilization of consumer information.³ The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), enacted in 2010, transferred to the Bureau most, but not all, of the rulemaking authority for issuing regulations under the FCRA.⁴ The Board and other federal agencies retained rulemaking responsibility for the FCRA provisions regarding identity theft prevention programs and the duties of card issuers to validate consumers' changes of address (identity theft red flags), as well as the disposal of consumer information, with respect to the entities that are subject to each agency's respective enforcement authority.⁵ The Board and Federal Trade Commission (FTC) also retained rulemaking authority for certain provisions of the FCRA applicable to motor vehicle dealers.⁶ In addition, the

² The FCRA is one part of the Consumer Credit Protection Act, which also includes the Truth in Lending Act, Equal Credit Opportunity Act, and Fair Debt Collection Practices Act. See 15 U.S.C. 1601 *et seq.*

³ See 15 U.S.C. 1681.

⁴ The Bureau and the Board each have issued regulations implementing the FCRA. On December 21, 2011, the Bureau published an interim final rule establishing a new Regulation V. See 76 FR 79308 (Dec. 21, 2011), implementing the Bureau's FCRA regulations in 12 CFR part 1022. The information collection provisions in the Bureau's FCRA regulations are contained in Appendix B to 12 CFR part 1022; and in 12 CFR 1022.20–27, 1022.40–43, 1022.70–75, and 1022.82. The Board's FCRA regulations are implemented in the Board's Regulation V. See 12 CFR part 222. The information collection provisions in the Board's FCRA regulations applicable to institutions for which the Board has primary enforcement authority are contained in 12 CFR 222.90–91.

⁵ See section 1088(a)(10) of the Dodd-Frank Act, 15 U.S.C. 1681s(b) & (e); see also 15 U.S.C. 1681m and 1681w.

⁶ See section 1029 of the Dodd-Frank Act, 12 U.S.C. 5519(a) & (c), which provides generally that rulemaking authority for provisions of the federal consumer financial laws, including the FCRA, applicable to certain motor vehicle dealers are not within the Bureau's jurisdiction and must be implemented in regulations issued by the Board or the FTC. The FTC accounts for the PRA burden for

Board is authorized to enforce compliance with the information collection requirements contained in the Bureau's FCRA regulations applicable to institutions⁷ identified in 15 U.S.C. 1681s(b)(1)(A)(ii) with \$10 billion or less in assets, and applicable to consumers of these institutions.

Legal authorization and confidentiality: As amended by sections 1025 and 1088(a)(10) of the Dodd-Frank Act, the Board is authorized to enforce compliance with the information collection requirements contained in the Bureau's FCRA regulations (Appendix B to 12 CFR part 1022; and 12 CFR 1022.20–27, 1022.40–43, 1022.70–75, and 1022.82) applicable to institutions identified in 15 U.S.C. 1681s(b)(1)(A)(ii) with \$10 billion or less in assets, and applicable to consumers of these institutions (see 15 U.S.C. 1681s(b); 12 U.S.C. 5515). Additionally, pursuant to sections 1088(a)(2) and (10) of the Dodd-Frank Act, the Board retained authority under the FCRA to prescribe and enforce the information collection requirements in the Board's FCRA regulations relating to identity theft red flags (12 CFR 222.90–91) for institutions of any size, which are identified in 15 U.S.C. 1681s(b)(1)(A)(ii) (see 15 U.S.C. 1681m(e), and 1681s(b) and (e)).

The obligation to comply with the foregoing recordkeeping and disclosure requirements contained in the FCRA regulations prescribed by the Board and the FCRA regulations prescribed by the Bureau is mandatory, except for the consumer opt-out responses, which consumers are required to submit to affiliates of an institution in order to obtain a benefit (*i.e.*, to stop receiving solicitations for marketing purposes). Because the records and disclosures required under the Board's FCRA regulations and the Bureau's FCRA regulations are not provided to the Board, and because all records are maintained at Board-supervised institutions, no issue of confidentiality generally arises under the Freedom of Information Act (FOIA). In the event

motor vehicle dealers' compliance with the FCRA regulations. See, *e.g.*, 78 FR 16265, 16266 n. 11 (Mar. 14, 2013).

⁷ Pursuant to the Dodd-Frank Act, for certain federal consumer financial laws, the Bureau has primary enforcement authority over the Bureau's FCRA regulations with respect to, among other entities, insured depository institutions (banks and savings associations) with over \$10 billion in assets and any affiliates thereof. See 12 U.S.C. 5515; see also 12 U.S.C. 5514(a) and 5516. However, the Board retained enforcement authority over the Bureau's FCRA regulations with respect to depository institutions identified in 15 U.S.C. 1681s(b)(1)(A)(ii) with \$10 billion or less in assets and consumers of these institutions. See 15 U.S.C. 1681s(b); and 12 U.S.C. 5515.

such records or disclosures are obtained by the Board as part of an examination or supervision of a financial institution, this information is considered confidential pursuant to exemption 8 of the FOIA, which protects information contained in “examination, operating, or condition reports” obtained in the bank supervisory process (5 U.S.C. 552(b)(8)). In addition, certain information (such as records generated during the investigation of a direct dispute notice submitted by a consumer) also may be withheld under exemption 6 of the FOIA, which protects from disclosure information that “would constitute a clearly unwarranted invasion of personal privacy” (5 U.S.C. 552(b)(6)).

Current actions: On March 19, 2019, the Board published a notice in the **Federal Register** (84 FR 10070) requesting public comment for 60 days on the extension, without revision, of the Recordkeeping and Disclosure Requirements Associated with Regulation V (Fair Credit Reporting) (FR V). The comment period for this notice expired on May 20, 2019. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, June 11, 2019.

Michele Taylor Fennell,
Assistant Secretary of the Board.

[FR Doc. 2019-12694 Filed 6-14-19; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also

includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 15, 2019.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *First Merchants Corporation, Muncie, Indiana*; to merge with MBT Financial Corp. and thereby indirectly acquire Monroe Bank & Trust, both of Monroe, Michigan.

Board of Governors of the Federal Reserve System, June 12, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019-12739 Filed 6-14-19; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

[File No. 172 3051]

DealerBuilt/LightYear Dealer Technologies; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 17, 2019.

ADDRESSES: Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: “DealerBuilt/LightYear Dealer Technologies; File No. 172 3051” on your comment, and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite

CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT:

Jamie Hine (202-326-2188), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 12, 2019), on the World Wide Web, at <https://www.ftc.gov/news-events/commission-actions>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before July 17, 2019. Write “DealerBuilt/LightYear Dealer Technologies; File No. 172 3051” on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the <https://www.regulations.gov> website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you prefer to file your comment on paper, write “DealerBuilt/LightYear Dealer Technologies; File No. 172 3051” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at <https://www.regulations.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any commercial or financial information which . . . is privileged or confidential"—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before July 17, 2019. For information on the Commission's privacy policy, including routine uses

permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an agreement containing a consent order from LightYear Dealer Technologies, LLC, also doing business as DealerBuilt ("Respondent").

The proposed consent order ("proposed order") has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter involves DealerBuilt ("DealerBuilt"), a technology company that develops and sells dealer management system software and data processing services to automotive dealerships nationwide. Respondent has stored personal information about more than 14 million consumers.

The Commission's proposed two-count complaint alleges that Respondent has violated Section 5(a) of the Federal Trade Commission Act and the Standards for Safeguarding Customer Information Rule ("Safeguards Rule"), issued pursuant to Title I of the Gramm-Leach-Bliley Act ("GLB").

First, the proposed complaint alleges that Respondent has engaged in a number of unreasonable security practices that led to a hacker's unauthorized access of personal information belonging to about 12.5 million consumers. During that breach, the hacker also downloaded the personal information of approximately 70,000 consumers, which was contained in the back-up directories of five DealerBuilt customers. The proposed complaint alleges that Respondent:

- Failed to develop, implement, or maintain a written organizational information security policy;
- failed to implement reasonable guidance or training for employees or third-party contractors, regarding data security and safeguarding consumers' personal information;
- failed to assess the risks to the personal information stored on its network, such as by conducting periodic risk assessments or performing vulnerability and penetration testing of the network;

- failed to use readily available security measures to monitor its systems and assets at discrete intervals to identify data security events (e.g., unauthorized attempts to exfiltrate consumers' personal information across the company's network) and verify the effectiveness of protective measures;

- failed to impose reasonable data access controls, such as restricting inbound connections to known IP addresses, and requiring authentication to access backup databases;

- stored consumers' personal information on Respondent's computer network in clear text; and

- failed to have a reasonable process to select, install, secure, and inventory devices with access to personal information.

The proposed complaint alleges that Respondent could have addressed each of the failures described above by implementing readily available and relatively low-cost security measures.

The proposed complaint alleges that Respondent's failures caused or are likely to cause substantial injury to consumers that is not outweighed by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers themselves. Such practices constitute an unfair act or practice under Section 5 of the FTC Act.

Second, the proposed complaint alleges that Respondent violated the Safeguards Rule, which requires financial institutions to protect the security, confidentiality, and integrity of customer information by developing, implementing, and maintaining a comprehensive information security program that is written in one or more readily accessible parts, and that contains administrative, technical, and physical safeguards that are appropriate to the financial institution's size and complexity, the nature and scope of its activities, and the sensitivity of the customer information at issue. The proposed complaint alleges that Respondent:

- Failed to develop, implement, and maintain a written information security program;
- failed to identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information and failed to assess the sufficiency of any safeguards in place to control those risks; and
- failed to design and implement basic safeguards and to regularly test or otherwise monitor the effectiveness of such safeguards' key controls, systems, and procedures.

The proposed order contains injunctive provisions addressing the alleged unfair conduct in connection with Respondent's sale of dealer management system software and services. Part I of the proposed order prohibits Respondent, and any business that Respondent controls directly, or indirectly, from transferring, selling, sharing, collecting, maintaining, or storing personal information unless it establishes and implements, and thereafter maintains, a comprehensive information security program that protects the security, confidentiality, and integrity of such personal information.

Part II of the proposed order requires Respondent to obtain initial and biennial data security assessments for twenty years.

Part III of the agreement requires Respondent to disclose all material facts to the assessor and prohibits Respondent from misrepresenting any fact material to the assessments required by Part II.

Part IV requires Respondent to submit an annual certification from a senior corporate manager (or senior officer responsible for its information security program) that Respondent has implemented the requirements of the Order, is not aware of any material noncompliance that has not been corrected or disclosed to the Commission, and includes a brief description of any covered incident involving unauthorized access to or acquisition of personal information.

Part V requires Respondent to submit a report to the Commission of its discovery of any covered incident.

Part VI is a prohibition against violating GLB.

Parts VII through X of the proposed order are reporting and compliance provisions, which include recordkeeping requirements and provisions requiring Respondent to provide information or documents necessary for the Commission to monitor compliance. Part XI states that the proposed order will remain in effect for 20 years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission.

April J. Tabor,
Acting Secretary.

[FR Doc. 2019-12768 Filed 6-14-19; 8:45 am]

BILLING CODE 6750-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Request for Information.

SUMMARY: AHRQ is re-issuing this Request for Information to extend the date for receipt of comments. AHRQ invites public comment on its Request for Information (RFI) to inform potential revisions to the Consumer Assessment of Healthcare Providers and Systems Health Plan Survey 5.0. The Consumer Assessment of Healthcare Providers and Systems (CAHPS®) Health Plan Survey 5.0 is one of the CAHPS family of surveys that assess patients' experiences with health care providers, in different settings, and with health plans. The CAHPS surveys cover topics that are important to patients and that they are best able to assess, such as the communication with providers and access to health care services.

This RFI requests public comment regarding (1) the relevance and validity of the questions on CAHPS Health Plan Survey 5.0 (the Survey), and (2) any user concerns about revisions to the Survey.

DATES: Responses to the RFI must be received no later than June 28, 2019.

ADDRESSES: Interested parties are to submit comments electronically to CAHPS1@westat.com with the subject line HP RFI. Non-electronic responses will also be accepted. Please mail to CAHPS; Westat; 1600 Research Blvd.; RB 1186S; Rockville, MD 20850.

FOR FURTHER INFORMATION CONTACT: Questions may be addressed to Caren Ginsberg, Director, CAHPS Division, Center for Quality Improvement and Patient Safety, caren.ginsberg@ahrq.hhs.gov, or (301) 427-1894.

SUPPLEMENTARY INFORMATION: The last update of the Survey was in May 2012. AHRQ is considering an update to the Survey to ensure that the Survey questions continue to be relevant to Survey sponsors, users, patients, consumers, and other stakeholders. AHRQ is *not* seeking information on Survey administration methodology, public reporting, or Survey length with this request.

AHRQ is seeking information on current uses of the Survey that reflects organization-specific perspectives, the

impact of a potential Survey revision, and areas of the Survey that should and should not be modified. Respondents should refer to the questions with details on how such a Survey revision might affect the organization(s) they represent. Specific questions of interest to AHRQ include, but are not limited to, the following:

1. How and why does the respondent's organization use the Survey? For example, is it used for adults, children, or both? In what languages is it administered? What supplemental items, if any, are used (e.g., children with chronic conditions or others)?
2. What is working well/what are the strengths of the Survey?
3. What content areas might be missing from the Survey?
4. What content areas on the Survey are no longer relevant or useful and why?
5. Are there new topic areas the Survey should address?
6. Should the Survey be revised, what implications or barriers would there be for the commenter's organization to implement a new version of the Survey?
7. What information/documentation would be helpful to the respondent's organization in making a transition to a future version of the Survey?

AHRQ is interested in all of the questions listed above, but respondents are welcome to address as many or as few as they choose and to address additional areas of interest not listed. This RFI is for planning purposes only and should not be construed as a policy, solicitation for applications, or as an obligation on the part of the Government to provide support for any ideas in response to it. AHRQ will use the information submitted in response to this RFI at its discretion, and will not provide comments to any respondent's submission. However, responses to the RFI may be reflected in future solicitation(s) or policies. Respondents are advised that the Government is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted. No proprietary, classified, confidential or sensitive information should be included in your response. The Government reserves the right to use any non-proprietary technical information in any resultant solicitation(s). The contents of all submissions will be made available to the public upon request. Submitted

materials must be publicly available or able to be made public.

Virginia Mackay-Smith,
Associate Director.

[FR Doc. 2019-12636 Filed 6-14-19; 8:45 am]

BILLING CODE 4160-90-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Center for State, Tribal, Local and Territorial Support (CSTLTS), CDC/ATSDR Tribal Advisory Committee (TAC) Meeting and 19th Biannual Tribal Consultation Session

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: The Centers for Disease Control and Prevention (CDC)/Agency for Toxic Substances and Disease Registry (ATSDR), announces the following meeting and Tribal Consultation Session. The meetings are being hosted by CDC/ATSDR in-person only and are open to the public. Attendees must pre-register for the event by Friday, July 19, 2019, at the following link: <https://www.cdc.gov/tribal/consultation-support/tac/index.html>.

DATES: The meeting will be held on August 13-14, 2019.

August 13, 2019

- 8:00 a.m.–9:30 a.m., EDT—Tribal Caucus (Open only to elected tribal officials and by invitation)
- 9:30 a.m.–5:45 p.m., EDT—CDC/ATSDR TAC Meeting (Open to the public)

August 14, 2019

- 8:00 a.m.–9:30 a.m., EDT—Tribal Caucus (Open only to elected tribal officials and by invitation)
- 9:30 a.m.–5:45 p.m., EDT—CDC/ATSDR TAC Meeting (Open to the public)

ADDRESSES: Harrah's Cherokee, 77 Casino Drive, Cherokee, NC 28719.

FOR FURTHER INFORMATION CONTACT: Captain Carmen Clelland, PharmD, MPA, MPH, Director, Office of Tribal Affairs and Strategic Alliances, Center for State, Tribal, Local and Territorial Support, CDC, 4770 Buford Highway, Mailstop V18-4, Atlanta, GA 30341-3717; telephone (404) 498-0300; Tribalsupport@cdc.gov.

SUPPLEMENTARY INFORMATION: This meeting is being held in accordance with Presidential Executive Order No. 13175, November 6, 2000, and the Presidential Memorandum of November 5, 2009, and September 23, 2004, Consultation and Coordination with Indian Tribal Governments.

Purpose: The purpose of the TAC and consultation meetings is to advance CDC/ATSDR support for and collaboration with American Indian and Alaska Native (AI/AN) tribes and to improve the health of AI/AN tribes by pursuing goals that include assisting in eliminating the health disparities faced by AI/AN tribes; ensuring that access to critical health and human services and public health services is maximized to advance or enhance the social, physical, and economic status of American Indian and Alaskan Native people; and promoting health equity for all Indian people and communities. To advance these goals, CDC/ATSDR conducts government-to-government consultations with elected tribal officials or their authorized representatives. Consultation is an enhanced form of communication that emphasizes trust, respect, and shared responsibility. It is an open and free exchange of information and opinion among parties that leads to mutual understanding.

Matters To Be Considered: The agenda will include, but not limited to, discussions on securing sustainable funding to Indian Country, ensuring a tribal voice in CDC policy and programs, and current CDC priorities. The discussion topics are subject to revision as prioritize change. The TAC Meeting and Biannual Tribal Consultation Session will provide opportunities for elected AI/AN tribal officials to speak openly about the public health issues affecting their tribal nations. Tribal nations also will have an opportunity to present testimony about tribal public health issues. All elected tribal officials are encouraged to submit written testimony by 5:00 p.m., EDT, Friday, July 19, 2019 to Captain Carmen Clelland, Pharm, MPA, MPH, Director, Office of Tribal Affairs and Strategic Alliances via mail to 4770 Buford Highway, Mailstop V18-4, Atlanta, GA 30341-3717, or by email at TribalSupport@cdc.gov. Elected tribal officials can find guidance to assist in developing tribal testimony for CDC/ATSDR at www.cdc.gov/tribal/consultation-support/index.html. Please submit tribal testimony on official tribal letterhead.

Based on the number of elected tribal officials giving testimony and the time

available, it may be necessary to limit the time for each presenter.

Additional information about the TAC, CDC/ATSDR's Tribal Consultation Policy, and previous meetings can be found at www.cdc.gov/tribal/consultation-support/index.html. Agenda items are subject to change as priorities dictate.

The Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Sherri Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019-12724 Filed 6-14-19; 8:45 am]

BILLING CODE 4160-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2019-N-0721]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Accreditation of Third-Party Certification Bodies To Conduct Food Safety Audits and Issue Certifications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 17, 2019.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202-395-7285, or emailed to oir_submission@omb.eop.gov. All comments should be identified with the OMB control number 0910-0331. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations,

Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Accreditation of Third-Party Certification Bodies To Conduct Food Safety Audits and To Issue Certifications—21 CFR Part 1; Subpart M

OMB Control Number 0910–0750—Extension

FDA provides for accreditation of third-party certification bodies (CBs) to conduct food safety audits of eligible foreign food facilities, and issue food and facility certifications, pursuant to the FDA Food Safety Modernization Act. In accordance with 21 CFR part 1.600, subpart M, FDA uses certifications issued by accredited third-party CBs in deciding whether to admit certain imported food into the United States that FDA has determined poses a food safety risk and in deciding whether an importer is eligible to participate in a program for expedited review and entry of food imports. Except for limited circumstances in which we may directly accredit CBs to participate in the accredited third-party audits and certification program, we will recognize accreditation bodies (ABs) to accredit third-party CBs. Use of accredited third-party CBs and food and facility certifications helps us prevent potentially harmful food from reaching U.S. consumers and thereby improve the safety of the U.S. food supply. This collection of information increases efficiency by reducing the number of redundant audits to assess compliance with applicable food safety requirements of the Federal Food, Drug, and Cosmetic Act (FD&C Act) and FDA regulations.

We estimate that there are about 200,000 foreign food and feed exporters

that offer their food and feed for import into the United States. These foreign food and feed exporters include approximately 130,000 food and feed production facilities and approximately 71,000 farms. A proportion of these foreign food and feed exporters may offer food subject to mandatory certification requirements under section 801(q) of the FD&C Act (21 U.S.C. 381(q)(3)). In that case, the eligible entities must either comply with this collection of information to obtain certification from a CB accredited under the third-party program to continue exporting their food products into the United States, obtain certification from a foreign government designated by FDA, or lose their access to U.S. markets. We assume that in any given year, 75 foreign food and feed exporters will be subject to section 801(q) of the FD&C Act.

We estimate that 25 ABs will accredit CBs that will conduct food safety audits of foreign eligible entities that offer food or feed for import to the United States. We also estimate that approximately 207 CBs accredited by the 25 AB applicants will comply with the collection of information to participate in the program. In addition, we expect that one CB will apply and participate in the third-party program via direct accreditation by FDA under this collection of information.

In the **Federal Register** of February 20, 2019 (84 FR 5084), we published a 60-day notice requesting public comment on the proposed collection of information. Several comments were submitted, however only those responsive to the information collection topics solicited are addressed here.

(Comment 1) One comment suggested that the Agency should conduct all food safety audits instead of allowing third-party entities to conduct them, which would allow for greater accountability.

(Response) With current resources, we do not have the ability to conduct food safety audits for the thousands of foreign suppliers that could potentially be interested in using this program to establish eligibility for Voluntary

Qualified Importer Program under section 806 of the FD&C Act (21 U.S.C. 384b) or meet the certification requirements under section 801(q) of the FD&C Act. With accredited third-party CBs and ABs, we can leverage their food safety activities to benefit our system of public food safety assurances. The regulation for accreditation of third-party CBs includes requirements for the accredited CBs to demonstrate their competence and capability to determine an eligible entity’s compliance with the applicable food safety requirements of the FD&C Act and FDA regulations. In leveraging private food safety activities, we can prevent potentially harmful food from reaching U.S. consumers and thereby improve the safety of the U.S. food supply.

(Comment 2) One comment suggested that there would be less burden for the public to deal directly with FDA instead of a third party.

(Response) The Third-Party Program reduces burden for the public. Widespread participation and broad acceptance of audits and certifications under the program helps increase efficiency by eliminating redundant auditing to assess foreign suppliers’ compliance with the FD&C Act and FDA regulations.

(Comment 3) One comment offered that the Third-Party Program is a resourceful and competitive way to perform food safety audits and issue certifications.

(Response) We agree with this comment. The use of accredited third-party CBs and food and facility certifications helps us prevent potentially harmful food from reaching U.S. consumers and thereby improve the safety of the U.S. food supply. This collection of information increases efficiency by reducing the number of redundant audits to assess compliance with applicable food safety requirements of the FD&C Act and FDA regulations.

FDA estimates the burden of the collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN¹

21 CFR part 1; subpart M	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
§ 1.615 ²	7	1	7	2	14
§ 1.645 ²	68	1	68	2	136
§ 1.624(d) ²	7	1	7	160	1,120
§ 1.657(d) ²	68	1	68	160	10,880
Contract modification ²	7	9	63	2	126
§ 1.651 ²	68	48.5	3,298	2	6,596
§ 1.653(b)(2) ²	68	1	68	1	68
§ 1.625	25	426	10,650	0.25 (15 minutes)	2,663

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹—Continued

21 CFR part 1; subpart M	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
§ 1.624(c)	25	1	25	8	200
§ 1.657(d)	208	1	208	8	1,664
§ 1.652	208	48.5	10,088	0.083 (5 minutes)	837
§ 1.653(b)(2)	208	48.5	10,088	0.083 (5 minutes)	837
§ 1.656(c)	208	0.25	52	1	52
Total Annual Recordkeeping Burden					25,193

¹ There are no capital costs or operating and maintenance costs associated with annual recordkeeping burden.
² Initial burden for an AB seeking recognition or a CB seeking accreditation.

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN ¹

21 CFR part 1; subpart M	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (in hours)	Total hours
§ 1.630 ²	7	1	7	80	560
§ 1.670 ²	1	1	1	80	80
§ 1.634	25	1	25	8	200
§ 1.672	1	1	1	10	10
§ 1.623(a)	25	9	225	0.25 (15 minutes)	56
§ 1.623(b)	25	1	25	0.25 (15 minutes)	6
§ 1.653(b)(1)	208	48.5	10,088	0.25 (15 minutes)	2,522
§ 1.656(a) ³	207	48.5	10,040	0.25 (15 minutes)	2,510
§ 1.656(a) ⁴	207	48.5	10,040	0.25 (15 minutes)	2,510
§ 1.656(a) ⁵	1	55.4	55	0.25 (15 minutes)	14
§ 1.656(b) ⁶	207	1	207	0.25 (15 minutes)	52
§ 1.656(b) ⁷	1	1	1	0.25 (15 minutes)	1
§ 1.656(c)	208	0.25	52	0.25 (15 minutes)	13
§ 1.656(e) ⁸	208	0.25	52	0.25 (15 minutes)	13
§ 1.656(e) ⁹	207	0.25	52	0.25 (15 minutes)	13
Total Annual Reporting Burden					8,560

¹ There are no capital costs or operating and maintenance costs associated with annual reporting.
² Initial burden for an AB seeking recognition or a CB seeking accreditation.
³ Annual reporting of regulatory audit reports by CBs accredited by recognized ABs to their accrediting ABs.
⁴ Annual reporting of regulatory audit reports by CBs accredited by recognized ABs to FDA.
⁵ Annual reporting of regulatory audit reports by directly accredited CBs to FDA.
⁶ Annual reporting of self-assessment by accredited CBs to their recognized ABs.
⁷ Annual reporting of self-assessment by directly-accredited CBs to FDA.
⁸ Annual reporting of serious risk to public health by CBs accredited under the third-party program to eligible entities.
⁹ Annual reporting of serious risk to public health by accredited CBs to their recognized ABs.

The total annual recordkeeping burden by 25 recognized ABs and 208 CBs accredited under the third-party program is estimated at 25,193 hours (see table 1). We assume that all ABs that apply for recognition in the program become recognized and all CBs that apply for accreditation are accredited. The total annual reporting burden by 25 recognized ABs and 208 CBs accredited under the program is estimated at 8,560 hours (see table 2). These estimates reflect a correction to the estimates published in the last 60-day notice, which did not include estimates for the initial burden needed to apply for entry into the program.

We have adjusted our burden estimate since the last OMB approval to reflect the decrease of burden associated with one-time recordkeeping and reporting activities and have revised our estimate

to reflect the initial burden for new ABs seeking recognition and new CBs seeking accreditation. The adjustment resulted in decreases of 7,421 responses and 41,069 total burden hours.

Dated: June 11, 2019.
Lowell J. Schiller,
Principal Associate Commissioner for Policy.
 [FR Doc. 2019–12703 Filed 6–14–19; 8:45 am]
BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0350]

Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance for Tobacco Retailers on Tobacco Retailer Training Programs

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 aspects of the Guidance for Tobacco Retailers on Tobacco Retailer Training Programs.

DATES: Submit either electronic or written comments on the collection of information by August 16, 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 16, 2019. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 16, 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-2010-D-0350 for "Guidance for Tobacco Retailers on Tobacco Retailer Training Programs." 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.

Guidance for Tobacco Retailers on Tobacco Retailer Training Programs

OMB Control Number 0910-0745—Extension

I. Background

The Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111-31) does not require retailers to implement retailer training programs. However, the statute does provide for lesser civil money penalties for violations of access, advertising, and promotion restrictions of regulations

issued under section 906(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 387f(d)), as amended by the Tobacco Control Act, for retailers who have implemented a training program that complies with standards developed by FDA for such programs. FDA intends to issue regulations establishing standards for approved retailer training programs. In the interim, the guidance is intended to assist tobacco retailers in implementing effective training programs for employees.

The guidance discusses recommended elements that should be covered in a training program, such as: (1) Federal laws restricting the access to, and the advertising and promotion of, cigarettes, smokeless, and covered tobacco products; (2) the health and economic effects of tobacco use, especially when the tobacco use begins at a young age; (3) written company policies against

sales to minors and other restrictions on the access to, and the advertising and promotion of, tobacco products; (4) identification of the tobacco products sold in the retail establishment that are subject to the Federal laws prohibiting their sale to persons under the age of 18; (5) age verification methods; (6) practical guidelines for refusing sales; and (7) testing to ensure that employees have the required knowledge. The guidance recommends that retailers require current and new employees to take a written test prior to selling tobacco products and that refresher training be provided at least annually and more frequently as needed. The guidance recommends that retailers maintain certain written records documenting that all individual employees have been trained and that retailers retain these records for 4 years in order to be able to provide evidence

of a training program during the 48-month time period covered by the civil money penalty schedules in section 103(q)(2)(A) of the Tobacco Control Act.

The guidance also recommends that retailers implement certain hiring and management practices as part of an effective retailer training program. The guidance suggests that applicants and current employees be notified both verbally and in writing of the importance of complying with laws prohibiting the sales of tobacco products to persons under the age of 18. In addition, FDA recommends that retailers implement an internal compliance check program and document the procedures and corrective actions for the program.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Develop training program	273,900	1	273,900	16	4,382,400
Develop written policy against sales to minors and employee acknowledgement	273,900	1	273,900	1	273,900
Develop internal compliance check program	273,900	1	273,900	8	2,191,200
Total					6,847,500

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹

Activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeper	Total hours
Training program	273,900	4	1,095,600	0.25 (15 minutes)	273,900
Written policy against sales to minors and employee acknowledgement.	273,900	4	1,095,600	0.10 (6 minutes)	109,560
Internal compliance check program	273,900	2	547,800	0.5 (30 minutes)	273,900
Total					657,360

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA's estimate of the number of respondents in tables 1 and 2 is based on data reported to the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration. According to the fiscal year 2009 Annual Synar Report, there are 372,677 total retail tobacco outlets in the 50 States, District of Columbia, and 8 U.S. territories that are accessible to youth (meaning that there is no State law restricting access to these outlets to individuals older than age 18). Inflating this number by about 10 percent to account for outlets in States that sell tobacco but are, by law,

inaccessible to minors, results in an estimated total number of tobacco outlets of 410,000. We assume that 75 percent of tobacco retailers already have some sort of training program for age and identification verification. We expect that some of those retailer training programs already meet the elements in the guidance, some retailers would update their training program to meet the elements in the guidance, and other retailers would develop a training program for the first time. Thus, we estimate that two-thirds of tobacco retailers would develop a training program that meets the elements in the

guidance (66 percent of 410,000 = 270,600).

FDA estimates that the total burden for this collection will be 7,504,860 hours (6,847,500 reporting + 657,360 recordkeeping).

We also estimate that there are approximately 5,000 to 10,000 vape shops; we assume that 66 percent of them, or 3,300 (66% × 5,000) of the low estimate, currently engage in retailing activities (Ref. 1).

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

II. Reference

The following reference is on display with the Dockets Management Staff (see **ADDRESSES**) and is available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; it is not available electronically at <https://www.regulations.gov> as this reference is copyright protected. It may be available at the website address, if listed. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. Burke, D., "Trends & Insights in the Nicotine Delivery Category." Management Science Associates, Inc. Presentation at NATO Show, April 23, 2015.

Dated: June 11, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019-12677 Filed 6-14-19; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2019-N-2312]

Request for Nominations From Industry Organizations Interested in Participating in the Selection Process for Nonvoting Industry Representatives and Request for Nominations for Nonvoting Industry Representatives on the Allergenic Products Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is requesting that any industry organizations interested in participating in the selection of a nonvoting industry representative to serve on the Allergenic Products Advisory Committee (APAC) for the Center for Biologics Evaluation and Research notify FDA in writing. FDA is also requesting nominations for a nonvoting industry representative(s) to serve on the APAC. A nominee may either be self-nominated or nominated by an organization to serve as a nonvoting industry representative. Nominations will be accepted for current vacancies effective with this notice.

DATES: Any industry organization interested in participating in the selection of an appropriate nonvoting

member to represent industry interests must send a letter stating that interest to FDA by July 17, 2019, (see sections I and II of this document for further details). Concurrently, nomination materials for prospective candidates should be sent to FDA by July 17, 2019.

ADDRESSES: All statements of interest from industry organizations interested in participating in the selection process of nonvoting industry representative nominations should be sent to Serina Hunter-Thomas (see **FOR FURTHER INFORMATION CONTACT**). All nominations for nonvoting industry representatives may be submitted electronically by accessing the FDA Advisory Committee Membership Nomination Portal: <https://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm>. Information about becoming a member of an FDA advisory committee can also be obtained by visiting FDA's website at: <http://www.fda.gov/AdvisoryCommittees/default.htm>.

FOR FURTHER INFORMATION CONTACT: Serina Hunter-Thomas, Division of Scientific Advisors and Consultants, Center for Biologics Evaluation and Research, 10903 New Hampshire Ave., Bldg. 71, Rm. 6338, Silver Spring, MD 20993-0002, 240-402-5771, Fax: 301-595-1307, email: Serina.Hunter-Thomas@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: The Agency intends to add a nonvoting industry representative(s) to the following advisory committee:

I. Allergenic Products Advisory Committee

The committee reviews and evaluates data concerning the safety, effectiveness, and adequacy of labeling of marketed and investigational allergenic biological products or materials that are administered to humans for the diagnosis, prevention, or treatment of allergies and allergic disease, and makes appropriate recommendations to the Commissioner of Food and Drugs (the Commissioner) of its findings regarding the affirmation or revocation of biological product licenses; on the safety, effectiveness, and labeling of the products; on clinical and laboratory studies of such products; on amendments or revisions to regulations governing the manufacture, testing, and licensing of allergenic biological products; and on the quality and relevance of FDA's research programs which provide the scientific support for regulating these agents.

II. Selection Procedure

Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent industry interests should send a letter stating that interest to the FDA contact (see **FOR FURTHER INFORMATION CONTACT**) within 30 days of publication of this document (see **DATES**). Within the subsequent 30 days, FDA will send a letter to each organization that has expressed an interest, attaching a complete list of all such organizations; and a list of all nominees along with their current resumes. The letter will also state that it is the responsibility of the interested organizations to confer with one another and to select a candidate, within 60 days after the receipt of the FDA letter, to serve as the nonvoting member to represent industry interests for the committee. The interested organizations are not bound by the list of nominees in selecting a candidate. However, if no individual is selected within 60 days, the Commissioner will select the nonvoting member to represent industry interests.

III. Application Procedure

Individuals may self-nominate and/or an organization may nominate one or more individuals to serve as a nonvoting industry representative. Contact information, a current curriculum vitae, and the name of the committee of interest should be sent to the FDA Advisory Committee Membership Nomination Portal (see **ADDRESSES**) within 30 days of publication of this document (see **DATES**). FDA will forward all nominations to the organizations expressing interest in participating in the selection process for the committee. (Persons who nominate themselves as nonvoting industry representatives will not participate in the selection process).

FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and, therefore, encourages nominations of appropriately qualified candidates from these groups.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: June 11, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019-12678 Filed 6-14-19; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**National Institutes of Health****Prospective Grant of Exclusive Patent License: Lutetium-177 Radiotherapeutics Against Somatostatin-Receptor Expressing Neuroendocrine Tumors****AGENCY:** National Institutes of Health, HHS.**ACTION:** Notice.**SUMMARY:** The National Heart, Lung and Blood Institute (NHLBI), National Institutes of Health, Department of

Health and Human Services, is contemplating amending an existing license to include an exclusive patent license to Molecular Targeting Technologies, Inc. (MTTI); a Delaware corporation, with its principle place of business in West Chester, Pennsylvania, to practice the inventions embodied in the patent application listed in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: Only written comments and/or applications for a license which are received by the NHLBI Office of Technology Transfer and Development July 2, 2019 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, and comments relating to the contemplated exclusive patent license should be directed to: Michael Shmilovich, Esq., Senior Licensing and Patent Manager, 31 Center Drive, Room 4A29, MSC2479, Bethesda, MD 20892–2479, phone number 301–435–5019, or *shmilovm@mail.nih.gov*.

SUPPLEMENTARY INFORMATION: The following and all continuing U.S. and foreign patents/patent applications thereof are the intellectual properties to be licensed under the prospective agreement to MTTI:

NIH ref No.	Patent No. or patent application No.	Filing date	Title
E-150-2016-0-US-01 ..	62/333,427	May 9, 2019	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.
E-150-2016-0-PCT-02	PCT/US2017/031696.	May 9, 2017	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.
E-150-2016-0-CN-03 ..	201780029003X	November 9, 2018 ..	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.
E-150-2016-0-EP-04 ..	17796666.0	November 12, 2018	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.
E-150-2016-0-JP-05 ...	2018-558662	November 8, 2018 ..	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.
E-150-2016-0-US-06 ..	16/099,488	November 7, 2018 ..	Chemical Conjugates of Evans Blue Derivatives and Their Use as Radiotherapy and Imaging Agents.

The patent rights in these inventions have been assigned to the Government of the United States of America. The prospective patent license will be granted worldwide and limited to the extent that the above referenced patents or patent applications cover lutetium-177 radiotherapeutics for somatostatin-receptor expressing neuroendocrine tumors.

The invention pertains to a radiotherapeutic against neuroendocrine tumors that express somatostatin receptor. Radionuclide therapies directed against tumors that express somatostatin receptors (SSTRs) have proven effective for the treatment of advanced, low- to intermediate-grade neuroendocrine tumors. The subject radiotherapeutic covered by the subject patent estate includes a somatostatin (SST) peptide derivative like octreotate (TATE), conjugated to an Evans Blue (EB) analog, and further chelated via DOTA to therapeutic radionuclide. The EB analog reversibly binds to circulating serum albumin and improves the pharmacokinetics of SST peptide derivatives and reduce peptide-receptor radionuclide therapy toxicity. EB analog conjugated to octreotate (EB-DOTATATE) has been shown by the inventors to provide reversible albumin binding *in vivo* and extended half-life in

circulation. When EB-TATE is slowly released into the tumor microenvironment, tumor uptake and internalization into SSTR positive tumors resulted in delivery of radioactive particles and tumor cell killing. EB-TATE displayed significantly more favorable pharmacokinetics than TATE alone by achieving higher tumor to non-tumor penetration as evidenced by positron emission tomography.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive patent license will be royalty bearing and may be granted unless within fifteen (15) days from the date of this published notice, the NHLBI receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license in the prospective field of use that are timely filed in response to this notice will be treated as objections to the grant of the contemplated exclusive patent license.

Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the *Freedom of Information Act*, 5 U.S.C. 552.

Dated: June 3, 2019.

Michael A. Shmilovich,
Senior Licensing and Patenting Manager,
National Heart, Lung, and Blood Institute,
Office of Technology Transfer and
Development.

[FR Doc. 2019-12708 Filed 6-14-19; 8:45 am]

BILLING CODE 4140-01-P**DEPARTMENT OF HEALTH AND HUMAN SERVICES****National Institutes of Health****Prospective Grant of an Exclusive Patent License: Development and Commercialization of Cell Therapies for Cancer****AGENCY:** National Institutes of Health, HHS.**ACTION:** Notice.

SUMMARY: The National Cancer Institute, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the Supplementary Information section of this Notice to Tailored Therapeutics, LLC. (“Tailored”), located in Potomac, MD.

DATES: Only written comments and/or applications for a license which are received by the National Cancer Institute's Technology Transfer Center on or before July 2, 2019 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, and comments relating to the contemplated Exclusive Patent License should be directed to: Andrew Burke, Ph.D., Senior Technology Transfer Manager, NCI Technology Transfer Center, 9609 Medical Center Drive, RM 1E530, MSC 9702, Bethesda, MD 20892-9702 (for business mail), Rockville, MD 20850-9702; Telephone: (240)-276-5484; Facsimile: (240)-276-5504; Email: andy.burke@nih.gov.

SUPPLEMENTARY INFORMATION:

Intellectual Property

Group A

HLA-A3-Restricted T Cell Receptors Against Mutated RAS

1. U.S. Provisional Patent Application 62/749,750, filed October 24, 2018 (E-166-2018-0-US-01).

HLA Class II-Restricted T Cell Receptors Against RAS With G12R Mutation

1. U.S. Provisional Patent Application 62/795,203, filed January 22, 2019 (E-029-2019-0-US-01).

Group B

Methods of Producing T Cell Populations Using Hydroxycitric Acid and/or a Salt Thereof

1. U.S. Provisional Patent Application 62/661,941, filed April 24, 2018 (E-094-2018-0-US-01); and

2. International Patent Application PCT/US2019/028513, filed April 22, 2019 (E-094-2018-0-PCT-02).

The patent rights in these inventions have been assigned and/or exclusively licensed to the government of the United States of America.

The prospective exclusive license territory may be worldwide, and the fields of use may be limited to the following:

Fields of Use Applying to Intellectual Property Groups A and B

“Development, manufacture and commercialization of autologous, peripheral blood T cell therapy products engineered by CRISPR to express T cell receptors reactive to mutated KRAS, as claimed in the Licensed Patent Rights, for the treatment of human cancers. Specifically excluded from this field of use are retrovirally-engineered peripheral blood T cell therapy products for the treatment of human cancers.

Development, manufacture and commercialization of companion diagnostics approved or cleared by the FDA or equivalent foreign regulatory agency for Licensee-proprietary T cell therapy products.”

Fields of Use Applying to Intellectual Property Group B

“Development, manufacture and commercialization of autologous, peripheral blood T cell therapy products engineered by CRISPR to express T cell receptors reactive to mutated p53, as claimed in the Licensed Patent Rights, for the treatment of cancer in humans.

“Development, manufacture and commercialization of autologous, tumor infiltrating lymphocyte (TIL)-based adoptive T cell therapy products reactive to mutated p53, isolated as claimed in the Licensed Patent Rights, for the treatment of human cancers. Specifically excluded from this field of use are genetically engineered TIL cell therapy products for the treatment of human cancers.

Development, manufacture and commercialization of companion diagnostics approved or cleared by the FDA or equivalent foreign regulatory agency for Licensee-proprietary T cell therapy products.”

Intellectual Property Group A is primarily directed to isolated T cell receptors (TCRs) reactive to mutated Kirsten rat sarcoma viral oncogene homolog (KRAS), within the context of several human leukocyte antigens (HLAs). Mutated KRAS, which plays a well-defined driver role in oncogenesis, is expressed by a variety of human cancers, including: pancreatic, lung, endometrial, ovarian and prostate. Due to its restricted expression in precancerous and cancerous cells, this antigen may be targeted on mutant KRAS-expressing tumors with minimal normal tissue toxicity.

Intellectual Property Group B is primarily directed to methods of preparing isolated populations of T cells by culturing them in the presence of hydroxycitric acid and/or a salt thereof, and methods of treating cancer using populations of T cells cultured in such a manner.

This Notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published Notice, the National Cancer Institute receives written evidence and argument which establishes that the grant of the license would not be consistent with the

requirements of 35 U.S.C. 209 and 37 CFR part 404.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information from these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: June 3, 2019.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2019-12707 Filed 6-14-19; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; High Priority Research Networks.

Date: June 26, 2019.

Time: 12:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Ave, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Kimberly Firth, Ph.D., National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301-402-7702, firthkm@mail.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.
(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 12, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019-12712 Filed 6-14-19; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Assurance (Interinstitutional, Foreign, and Domestic) and Annual Report. Office of the Director (OD)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of Laboratory Animal Welfare (OLAW) in the Office of Extramural Research has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. The purpose of this notice is to allow 60 days for public comment.

DATES: Comments regarding this information collection are best assured of having their full effect if received

within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To submit comments in writing or request more information on the proposed collection, contact: Eileen M. Morgan, Director, Division of Assurances, Office of Laboratory Animal Welfare, NIH, call (301) 594-2289 or email your request to *olawdocs@mail.nih.gov*. Formal requests for information collection forms must be requested via email to *olawdocs@mail.nih.gov*.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: Assurance (Interinstitutional, Foreign, and Domestic) and Annual Report,

OMB#0925-NEW, Office of the Director (OD), National Institutes of Health (NIH).

Need and Use of Information Collection: The Office of Laboratory Welfare (OLAW) is responsible for the implementation, general administration, and interpretation of the Public Health Service (PHS) Policy on Humane Care and Use of Laboratory Animals (Policy) as codified in 42 CFR 52.8. The PHS Policy implements the Health Research Extension Act (HREA) of 1985 (Pub. L. 99-158 as codified in 42 U.S.C. 289d). The PHS Policy requires entities that conduct research involving vertebrate animals using PHS funds to have an Institutional Animal Care and Use Committee (IACUC), provide assurance that requirements of the Policy are met, and submit an annual report. An institution's animal care and use program is described in the Animal Welfare Assurance (Assurance) document and sets forth institutional compliance with PHS Policy. The purpose of the Assurance (Interinstitutional, Foreign, and Domestic) and Annual Report is to provide OLAW with documentation to satisfy the requirements of the HREA, illustrate institutional adherence to PHS Policy, and enable OLAW to carry out its mission to ensure the humane care and use of animals in PHS-supported research, testing, and training, thereby contributing to the quality of PHS-supported activities.

OMB approval is requested for 3 years. The total estimated annualized burden hours are 8,140.

ESTIMATED ANNUALIZED BURDEN HOURS

Document	Type of respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Annual burden hours
Interinstitutional Assurance	Foreign	40	1	30/60	20
Interinstitutional Assurance	Domestic	660	1	30/60	330
Foreign Assurance	Renewal and New	60	1	1	60
Domestic Assurance	Renewal	220	1	26	5,720
Domestic Assurance	New	20	1	30	600
Annual Report	All Domestic	940	1	90/60	1,410
Total .....	.....	.....	1,940	.....	8,140

Dated: June 11, 2019.

Lawrence A. Tabak,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2019-12734 Filed 6-14-19; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended, notice is hereby given of the following meetings.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH Pathway to Independence Awards (K99/R00, K22).

Date: July 9, 2019.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center Building (NSC), 6001 Executive Boulevard, Rockville, MD 20852, (Virtual Meeting).

Contact Person: Erin E. Gray, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6152B, Bethesda, MD 20892, 301-402-8152, erin.gray@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Integration and Analysis of BRIAN Initiative Date (R01).

Date: July 11, 2019.

Time: 12:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center Building (NSC), 6001 Executive Boulevard, Rockville, MD 20852, (Virtual Meeting).

Contact Person: Marcy Ellen Burstein, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6152B, Bethesda, MD 20892, 301-402-8152, erin.gray@mail.nih.gov

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: June 12, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019-12714 Filed 6-14-19; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Frederick National Laboratory Advisory Committee to the National Cancer Institute, June 27, 2019, 9:00 a.m. to June 27, 2019, 4:30 p.m., National Cancer Institute Shady Grove, 9609 Medical Center Drive, TE406, Rockville, MD, 20850 which was published in the **Federal Register** on February 11, 2019, 84 FR 3215.

This meeting notice is amended to change the start and end time from 9:00 a.m.–4:30 p.m. to 9:30 a.m.–4:00 p.m. on June 27, 2019. The meeting is open to the public.

Dated: June 12, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019-12710 Filed 6-14-19; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; High Priority Research Networks for Alzheimer's disease.

Date: June 26, 2019.

Time: 3:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Ave, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Kimberly Firth, Ph.D., National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301-402-7702, firthkm@mail.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 12, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019-12713 Filed 6-14-19; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Asthma Education Prevention Program Coordinating Committee, which was published in the **Federal Register** on April 19, 2019, 84 FR16683.

Date, Time, and Place remain the same. This notice is amended to update the website that will be providing the meeting information. The website is: <https://www.nhlbi.nih.gov/advisory-and-peer-review-committees/national-asthma-education-and-prevention-program-coordinating>.

The meeting is open to the public.

Dated: June 11, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019-12711 Filed 6-14-19; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors for Clinical Sciences and Epidemiology National Cancer Institute, July 9, 2019, 9:00 a.m. to July 9, 2019, 3:45 p.m., National Institutes of Health, Porter Neuroscience Building, 35 Convent Drive, Building 35, Bethesda, MD 20892 which was published in the **Federal Register** on February 15, 2019, 84 FR 4494.

This meeting notice is amended to add an open session from 11:55 a.m. to 12:15 p.m. to present concepts for Center for Cancer Research R&D contracts. The meeting is partially closed to the public.

Dated: June 12, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019-12709 Filed 6-14-19; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard**

[Docket No. USCG–2019–0476]

Notice of Public Meeting in Preparation for the IMO's One Hundred Twenty Second Session of IMO's Council**AGENCY:** Coast Guard, DHS.**ACTION:** Notice of meeting.

SUMMARY: The United States Coast Guard will conduct an open meeting in Washington, DC in preparation for the upcoming one hundred twenty second session of International Maritime Organization (IMO) Council to be held at the IMO Headquarters, United Kingdom, July 15–19, 2019.

DATES: This meeting will be held on Thursday, July 11, 2019, beginning at 2:00 p.m., Eastern Time. This meeting is open to the public.

ADDRESSES: The public meeting will be held in Room 5L18–01 of the Douglas A. Munro Coast Guard Headquarters Building at St. Elizabeth's, 2703 Martin Luther King, Jr. Avenue SE, Washington, DC 20593. Due to security requirements, each visitor must present two valid, government-issued forms of identification in order to gain entrance to the building. Those desiring to attend the public meeting should contact the Coast Guard ahead of the meeting (see **FOR FURTHER INFORMATION CONTACT**) to facilitate the security process related to building access, for the teleconference number, or to request reasonable accommodation.

FOR FURTHER INFORMATION CONTACT: For additional information about this public meeting you may contact Lieutenant Commander Staci Weist by telephone at 202–372–1376 or by email at Eustacia.Y.Weist@uscg.mil.

SUPPLEMENTARY INFORMATION: The primary purpose of this meeting is to prepare for the upcoming one hundred twenty second session of IMO Council (C 122). The agenda items for this session include:

- Adoption of the agenda
- Report of the Secretary-General on credentials
- Strategy, planning and reform
- Resource Management
- Results-based budget for 2020–2021
- IMO Member State Audit Scheme
- Consideration of the report of the Facilitation Committee
- Consideration of the report of the Legal Committee
- Consideration of the report of the Marine Environment Protection Committee

- Consideration of the report on the fortieth Consultative Meeting of Contracting Parties to the London Convention 1972 and the thirteenth Meeting of Contracting Parties to the 1996 Protocol to the London Convention
- Consideration of the reports of the Maritime Safety Committee
- Consideration of the report of the Technical Cooperation Committee
- Technical Cooperation Fund
- Protection of vital shipping lanes
- World Maritime University
- Assembly matters
- External relations
- Report on the status of the Convention and membership of the Organization
- Report on the status of conventions and other multilateral instruments in respect of which the Organization performs functions
- Place, date and duration of the next two sessions of the Council
- Supplementary agenda items, if any

Members of the public may attend this meeting up to the seating capacity of the room, or the capacity of the phone line. To facilitate the building security process, and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, Lieutenant Commander Staci Weist, not later than July 8, 2019. Requests made after July 8, 2019, may not be able to be accommodated. It is recommended that attendees arrive to Coast Guard Headquarters no later than 30 minutes ahead of the scheduled meeting for the security screening process. Parking in the vicinity of the building is extremely limited. Additional information regarding this and other IMO public meetings may be found at: www.uscg.mil/imo.

Dated: June 12, 2019.

Benjamin J. Hawkins,*Acting Director, Commercial Regulations and Standards, U.S. Coast Guard.*

[FR Doc. 2019–12770 Filed 6–14–19; 8:45 am]

BILLING CODE P**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency**

[Docket ID FEMA–2019–0013; OMB No. 1660–0054]

Agency Information Collection Activities: Proposed Collection; Comment Request; Assistance to Firefighters Grant Program and Fire Prevention and Safety Grants—Grant Application Supplemental Information**AGENCY:** Federal Emergency Management Agency, DHS.**ACTION:** Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning grant application information necessary to assess the needs and benefits of applicants for the Assistance to Firefighters Grant Program and Fire Prevention and Safety Grant Program.

DATES: Comments must be submitted on or before August 16, 2019.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at www.regulations.gov under Docket ID FEMA–2019–0013. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW, 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: William Dunham, Fire Program Specialist, Grant Program Directorate, 202–786–9813. You may contact the Information Management Division for

copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov*.

SUPPLEMENTARY INFORMATION:

Information sought under this submission will comprise of applications for Assistance to Firefighters Grant Program (AFG) and Fire Prevention and Safety (FPS) grants, Semi-Annual Performance Report, and Final Performance report. The authorizing legislation allows FEMA to fund fire department activities. The authority for AFG and FPS is derived from the Federal Fire Protection and Control Act of 1974 (15 U.S.C. 2229 *et seq.*), as amended. The information collected through the programs' applications is the minimum necessary to evaluate grant applications and is necessary for FEMA to comply with mandates delineated in AFG laws.

Collection of Information

Title: Assistance to Firefighters Grant Program and Fire Prevention and Safety Grants-Grant Application Supplemental Information.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660-0054.

FEMA Forms: FEMA Form FEMA Form 080-0-2, AFG Application (General Questions and Narrative); FEMA Form 080-0-2a, Activity Specific Questions for AFG Vehicle Applicants; FEMA Form 080-0-2b, Activity Specific Questions for AFG Operations and Safety Applications; FEMA Form 080-0-3, Activity Specific Questions for Fire Prevention and Safety Applicants; FEMA Form 080-0-3a, Fire Prevention and Safety; FEMA Form 080-0-3b, Research and Development; and FEMA Form 080-0-13, Semi-Annual Performance Report; FEMA Form 080-0-16, Fire Grants Final Performance Report.

Abstract: The FEMA forms for this collection are used to objectively evaluate each of the anticipated applicants to determine which applicants' submission in each of the AFG and FP&S activities are close to the established program priorities. FEMA also uses the information to determine eligibility and whether the proposed use of funds meets the requirements and intent of AFG legislation.

Affected Public: State, Local or Tribal Government, and Not-for-profit institutions.

Estimated Number of Respondents: 27,220.

Estimated Number of Responses: 29,830.

Estimated Total Annual Burden

Hours: 167,290.34.

Estimated Total Annual Respondent Cost: \$9,426,559.74.

Estimated Respondents' Operation and Maintenance Costs: N/A.

Estimated Respondents' Capital and Start-Up Costs: N/A.

Estimated Total Annual Cost to the Federal Government: \$3,315,334.75.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

William H. Holzerland,

Sr. Director, Information Management Division, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2019-12746 Filed 6-14-19; 8:45 am]

BILLING CODE 9111-78-P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX19LR000F60100; OMB Control Number 1028-0059]

Agency Information Collection Activities; Comprehensive Test Ban Treaty

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Geological Survey (USGS) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 16, 2019.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov*. Please reference OMB Control Number 1028-0059 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Elizabeth S. Sangine by email at *escottssangine@usgs.gov*, or by telephone at 703-648-7720.

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 USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS 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 collection of this information is required by the Comprehensive Test Ban Treaty (CTBT), and will, upon request, provide the CTBT Technical Secretariat with geographic locations of sites where

chemical explosions greater than 300 tons TNT-equivalent have occurred.

Title of Collection: Comprehensive Test Ban Treaty.

OMB Control Number: 1028-0059.

Form Number: USGS Form 9-4040-A.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public:

Business or Other-For-Profit Institutions: U.S. nonfuel minerals producers.

Total Estimated Number of Annual Respondents: 4,012.

Total Estimated Number of Annual Responses: 4,012.

Estimated Completion Time per Response: 15 minutes.

Total Estimated Number of Annual Burden Hours: 1,003.

Respondent's Obligation: Voluntary.

Frequency of Collection: Annually.

Total Estimated Annual Nonhour Burden Cost: There are no "non-hour cost" burdens associated with this IC.

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 authorities for this action are the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1601 *et seq.*), the National Mining and Minerals Policy Act of 1970 (30 U.S.C. 21(a)), the CTBT Part III, and the CTBT USGS-Department of Defense Memorandum of Agreement.

Michael Magyar,

Associate Director, National Minerals Information Center.

[FR Doc. 2019-12641 Filed 6-14-19; 8:45 am]

BILLING CODE 4338-11-P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-1422-1423 (Final)]

Strontium Chromate From Austria and France; Scheduling of the Final Phase of Anti-Dumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigations Nos. 731-TA-1422-1423 (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 strontium chromate from Austria and France, provided for in subheadings 2841.50.9100 and 3212.90.0050 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 17, 2019.

FOR FURTHER INFORMATION CONTACT:

Christopher Robinson ((202) 205-2602), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of these investigations, Commerce has defined the subject merchandise as strontium chromate, regardless of form (including but not limited to, powder (sometimes known as granular), dispersions (sometimes known as paste), or in any solution). The chemical formula for strontium chromate is SrCrO₄ and the Chemical Abstracts Service (CAS) registry number is 7789-06-2.¹

Background.—The final phase of these investigations 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 strontium chromate from France are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on

¹ Strontium chromate that has been blended with another product or products is included in the scope if the resulting mix contains 15 percent or more of strontium chromate by total formula weight. Products with which strontium chromate may be blended include, but are not limited to, water and solvents such as Aromatic 100 Methyl Amyl Ketone (MAK)/2-Heptanone, Acetone, Glycol Ether EB, Naphtha Leicht, and Xylene. Subject merchandise includes strontium chromate that has been processed in a third country into a product that otherwise would be within Commerce's scope if processed in the country of manufacture of the in-scope strontium chromate.

September 5, 2018, by Lumimove, Inc., d.b.a. WPC Technologies, Oak Creek, Wisconsin.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Although Commerce has preliminarily determined that imports of strontium chromate from Austria are not being and are not likely to be sold in the United States at less than fair value, for purposes of efficiency the Commission hereby waives rule 207.21(b)² so that the final phase of the investigations may proceed concurrently in the event that Commerce makes a final affirmative determination with respect to such imports.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary

² Section 207.21(b) of the Commission's rules provides that, where Commerce has issued a negative preliminary determination, the Commission will publish a Final Phase Notice of Scheduling upon receipt of an affirmative final determination from Commerce.

phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on 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 these investigations beginning at 9:30 a.m. on Thursday, October 3, 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 September 27, 2019. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on October 2, 2019, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is 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 10, 2019. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before October 10, 2019. On October 25, 2019, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or

before October 29, 2019, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing*, available on the Commission's website at <https://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 investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: June 12, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019-12757 Filed 6-14-19; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-610 and 731-TA-1425-1427 (Final)]

Stainless Steel Kegs From China, Germany, and Mexico; Scheduling of the Final Phase of Countervailing Duty and Anti-Dumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701-TA-610 and 731-TA-1425-1427 (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 refillable stainless steel kegs from China, Germany, and Mexico, provided for in subheadings 7310.10.00 and 7310.29.00 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce ("Commerce") to be subsidized and sold at less-than-fair-value.

DATES: June 4, 2019.

FOR FURTHER INFORMATION CONTACT:

Celia Feldpausch ((202) 205-2387), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of these investigations, Commerce has defined the subject merchandise as . . . "kegs, vessels, or containers with bodies that are approximately cylindrical in shape, made from stainless steel. . . ." ¹

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China, Germany, and Mexico of stainless steel kegs, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19

¹ For the purposes of these investigations, the Department of Commerce has defined the subject merchandise as kegs, vessels, or containers with bodies that are approximately cylindrical in shape, made from stainless steel. For a full description of the scope of these investigations, including product exclusions, see *Refillable Stainless Steel Kegs from Mexico: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 25738, June 4, 2019.

U.S.C. 1673b). The investigations were requested in petitions filed on September 20, 2018, by American Keg Company, LLC, Pottstown, Pennsylvania.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on August 1, 2019, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on August 14, 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 August 9, 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 August 12, 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 August 8, 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 August 21, 2019. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before August 21, 2019. On September 10, 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 September 12, 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 investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: June 11, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019-12663 Filed 6-14-19; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1141]

Certain Cartridges for Electronic Nicotine Delivery Systems and Components Thereof; Commission Determination Not to Review an Initial Determination To Amend the Complaint and Notice of Investigation To Correct the Name of a Corporate Respondent

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (the "Commission") has determined not to review an initial determination ("ID") (Order No. 29) to amend the complaint and notice of investigation to correct the name of a corporate respondent.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2382. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436,

telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's Electronic Docket Information System ("EDIS") (<https://edis.usitc.gov>). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION: On December 27, 2018, the Commission instituted the present investigation based on a complaint filed by Juul Labs, Inc. ("Juul") of San Francisco, California. 83 FR 66756 (Dec. 27, 2018). The complaint alleges a violation of 19 U.S.C. 1337, as amended ("Section 337"), in the importation, sale for importation, and sale in the United States after importation of certain cartridges used in electronic nicotine delivery systems and components thereof that allegedly infringe one or more of the asserted claims of U.S. Patent Nos. 10,058,129; 10,104,915; 10,111,470; 10,117,465; and 10,117,466. *Id.* The notice of investigation named twenty-three (23) respondents, including Ziip Lab Co., Ltd. ("Ziip") of Shenzhen City, Guangdong Province, China. The Office of Unfair Import Investigations was also named as a party. *Id.*

A number of respondents have already been terminated from this investigation pursuant to consent orders or settlement. *See* Order No. 26 (*not rev'd*, Comm'n Notice (May 31, 2019)); Order No. 25 (*not rev'd*, Comm'n Notice (May 15, 2019)); Order Nos. 19–21 (*not rev'd*, Comm'n Notice (May 7, 2019)); Order Nos. 15, 16 (*not rev'd*, Comm'n Notice (Mar. 26, 2019)); Order Nos. 13, 14 (*not rev'd*, Comm'n Notice (Mar. 26, 2019)).

On May 9, 2019, Juul and Ziip filed a joint motion to amend the complaint and notice of investigation to correct the name of Ziip Lab Co., Ltd., which is an alias, to SS Group Holdings, which is the respondent's correct legal name. None of the parties opposed the joint motion.

On May 15, 2019, the presiding administrative law judge issued the subject ID (Order No. 29) granting the joint motion to amend the complaint and notice of investigation to reflect the correct legal name of SS Group Holdings.

No party filed a petition to review the subject ID. The Commission has determined not to review the subject ID.

The authority for the Commission's determination is contained in Section

337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: June 12, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–12758 Filed 6–14–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Open Group, L.L.C.

Notice is hereby given that, on May 24, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), The Open Group, L.L.C. ("TOG") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Aljuf University, Sakaka, SAUDI ARABIA; Altus Well Experts Inc., Katy, TX; Anadarko Petroleum Corporation, The Woodlands, TX; Area-I Inc., Kennesaw, GA; Ascendant Engineering Solutions, Austin, TX; Asia eHealth Information Network, Kowloon, HONG KONG-PEOPLE'S REPUBLIC OF CHINA; Beyond Limits, Inc., Glendale, CA; CGG Services (S) Inc., Houston, TX; CODESYS Holding GmbH, Kempton, GERMANY; Cognite AS, Lyssaker, NORWAY; DAWAN, Nantes, FRANCE; Debswana Diamond Company (Pty) Ltd., Gaborone, BOTSWANA; FiberQA LLC, Old Lyme, CT; Google LLC, Mountain View, CA; Halliburton Corporation, Houston, TX; Hess Corporation, Houston, TX; Hitachi Vantara, Santa Clara, CA; IHS Global Inc., Houston, TX; ING Group NV, Amsterdam, THE NETHERLANDS; InovaPrime, Serviços em Tecnologias de Informação, Lda., Lisbon, PORTUGAL; InProgress sp. z.o.o., Krakow, POLAND; Integrated Solutions for Systems, Auburn, AL; KADME AS, Stavanger, NORWAY; Katalyst Data Management LLC, Houston, TX; LCR Embedded Systems, Jeffersonville, PA; LeanIX GmbH, Bonn, GERMANY; Marathon Oil Corporation, Houston, TX; Pandioni Energy AS, Oslo, NORWAY; Real Time Automation Inc.,

Pewaukee, WI; Richfit Information Technology Co. Ltd., Beijing, PEOPLE'S REPUBLIC OF CHINA; Samson Aktieneegesellschaft, Frankfurt, GERMANY; Schlumberger Oilfield UK Plc, Gatwick, UNITED KINGDOM; SRC, Inc., N Syracuse, NY; Star Lab Corp., Huntsville, AL; Target Energy Solutions, Ltd., Woking, UNITED KINGDOM; TechnipFMC plc, Houston, TX; TOGETHER Business & Consulting S.r.l., Pilar, ARGENTINA; Troika International Ltd., Turnbridge, UNITED KINGDOM; WellLogData, Houston, TX; and Ximiq AG, Solothurn, SWITZERLAND, have been added as parties to this venture.

Also, Action Research Foundation, Bangalore, INDIA; Avancier Limited, New Malden, UNITED KINGDOM; BP Gurus, Mexico City, MEXICO; Enterprise Wise LLC, Hoschton, GA; Eon Consulting (Pty) Ltd., Midrand, SOUTH AFRICA; HiSolutions, Berlin, GERMANY; PricewaterhouseCoopers LLP, Gauteng, SOUTH AFRICA; Procept Associates Ltd., Toronto, CANADA; QubeStation, Inc., Chantilly, VA; Tieturi OY, Helsinki, FINLAND; WellAware, San Antonio, TX; and Westbury Software, Amsterdam, THE NETHERLANDS, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and TOG intends to file additional written notifications disclosing all changes in membership.

On April 21, 1997, TOG filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 13, 1997 (62 FR 32371).

The last notification was filed with the Department on March 4, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 4, 2019 (84 FR 13318).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019–12648 Filed 6–14–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—R Consortium, Inc.

Notice is hereby given that, on May 16, 2019, pursuant to Section 6(a) of the National Cooperative Research and

Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), R Consortium, Inc. (“R Consortium”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, IBM Corporation, Armonk, NY, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and R Consortium intends to file additional written notifications disclosing all changes in membership.

On September 15, 2015, R Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 2, 2015 (80 FR 59815).

The last notification was filed with the Department on December 13, 2018. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 31, 2019 (84 FR 796).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019–12643 Filed 6–14–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on ROS-Industrial Consortium Americas

Notice is hereby given that, on April 24, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Southwest Research Institute—Cooperative Research Group on ROS-Industrial Consortium Americas (“RIC-Americas”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, EPSON America, Inc., Long

Beach, CA, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and RIC-Americas intends to file additional written notifications disclosing all changes in membership.

On April 30, 2014, RIC-Americas filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 9, 2014 (79 FR 32999).

The last notification was filed with the Department on March 11, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 4, 2019 (84 FR 13318).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019–12645 Filed 6–14–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Advanced Lead-Acid Battery Consortium

Notice is hereby given that, on May 28, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Advanced Lead-Acid Battery Consortium (“ALABC”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its status and membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the members of ALABC have authorized its discontinuance, which was effective February 24, 2019.

On June 15, 1992, the ALABC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 29, 1992 (57 FR 33522).

The last notification was filed with the Department on March 21, 2002. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on April 18, 2002 (67 FR 19252).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019–12646 Filed 6–14–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Countering Weapons of Mass Destruction

Notice is hereby given that, on April 24, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Countering Weapons of Mass Destruction (“CWMD”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, Alpha Space Test and Research Alliance, LLC Houston, TX; AQUILA, Albuquerque, NM; Aurora Flight Sciences Corp., Manassas, VA; Blueforce Development, Corp., Newburyport, MA; Draeger, Inc., Telford, PA; Field Forensics, Inc., Saint Petersburg, FL; Interclypse, Inc., Annapolis Junction, MD; Kansas State University, Manhattan, KS; Mirion Technologies (Canberra) Inc., Oak Ridge, TN; Mirion Technologies (MGPI), Smyrna, GA; Nucsafte, Inc., Oak Ridge, TN; Physical Optics Corporation, Torrence, CA; QRC, LLC dba QRC Technologies, Fredericksburg, VA; Rhodium Scientific, LLC, San Antonio, TX; SpectraGenetics, Inc., Pittsburgh, PA; Spectrum Photonics, Honolulu, HI; Subsystem Technologies, Inc., Arlington, VA; Surface Optics Corporation, San Diego, CA; SURVICE Engineering Company, LLC, Belcamp, MD; Teledyne Brown Engineering, Inc., Huntsville, AL; Valitus Technologies, Inc., Corona, CA; and WGS Systems, LLC, Frederick, MD, have been added as parties to this venture.

Also, EcoHealth Alliance, New York, NY, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CWMD

intends to file additional written notifications disclosing all changes in membership.

On January 31, 2018, CWMD filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 12, 2018 (83 FR 10750).

The last notification was filed with the Department on January 28, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 15, 2019 (84 FR 4537).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019-12647 Filed 6-14-19; 8:45 am]

BILLING CODE 4410-11-P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act Of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on May 24, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), IMS Global Learning Consortium, Inc. (“IMS Global”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Deer Park Independent School District, Deer Park, TX; DeKalb County Schools, Decatur, GA; Genius Plaza, Miami, FL; Montana Office of Public Instruction-Montana Digital Academy, Helena, MT; New South Wales Department of Education, Sydney, AUSTRALIA; Northcentral University, San Diego, CA; and Vetenskapsrådet, Stockholm, SWEDEN, have been added as parties to this venture.

Also, Performance Matters, Winter Park, FL; and ScholarChip Card LLC, Hicksville, NY, have withdrawn as parties to this venture.

In addition, Cengage Learning has changed its name to Cengage, Belmont, CA; and CETE—Center for Educational Testing & Evaluation, University of Kansas has changed its name to University of Kansas Achievement and Assessment Institute, Lawrence, KS.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global intends to file additional written notifications disclosing all changes in membership.

On April 7, 2000, IMS Global filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on March 11, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 4, 2019 (84 FR 13319).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019-12642 Filed 6-14-19; 8:45 am]

BILLING CODE 4410-11-P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—DVD Copy Control Association

Notice is hereby given that, on May 15, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), DVD Copy Control Association (“DVD CCA”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Audible Magic Corporation, Los Gatos, CA; and Singulus Technologies AG, Eindhoven, NETHERLANDS, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and DVD CCA intends to file additional written notifications disclosing all changes in membership.

On April 11, 2001, DVD CCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 3, 2001 (66 FR 40727).

The last notification was filed with the Department on December 5, 2018. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 27, 2018 (83 FR 66747).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019-12640 Filed 6-14-19; 8:45 am]

BILLING CODE 4410-11-P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—UHD Alliance, Inc.

Notice is hereby given that, on April 23, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), UHD Alliance, Inc. (“UHD Alliance”) filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, TCL North America, Corona, CA; and VIZIO, Inc., Irvine, CA have been added as parties to this venture.

Also, OPPO Digital Inc., Menlo Park, CA; Shenzhen TCL New Technology Co., Ltd., Shenzhen, PEOPLE’S REPUBLIC OF CHINA; THX Ltd., San Francisco, CA; and Twentieth Century Fox Film Corporation, Beverly Hills, CA have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and UHD Alliance intends to file additional written notifications disclosing all changes in membership.

On June 17, 2015, UHD Alliance filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 17, 2015 (80 FR 42537).

The last notification was filed with the Department on January 31, 2019. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on February 28, 2019 (84 FR 6823).

Suzanne Morris,
Chief, Premerger and Division Statistics Unit,
Antitrust Division.

[FR Doc. 2019-12644 Filed 6-14-19; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-392]

Importer of Controlled Substances Registration

ACTION: Notice of registration.

SUMMARY: The registrant listed below have applied for and been granted registration by the Drug Enforcement Administration (DEA) as an importer of schedule I controlled substances.

SUPPLEMENTARY INFORMATION: The company listed below applied to be registered as an importer of basic class of controlled substances. Information on previously published notice is listed in the table below. No comments or objections were submitted and no requests for a hearing were submitted for this notice.

Company	FR Docket	Published
Sanyal Biotechnology, LLC	84 FR 13953	April 8, 2019.

The DEA has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of the listed registrant to import the applicable basic class of schedule I 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. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the DEA has granted a registration as an importer for schedule I controlled substances to the above listed company.

Dated: June 7, 2019.

John J. Martin,
Assistant Administrator.

[FR Doc. 2019-12740 Filed 6-14-19; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act; the Clean Water Act; and the Oil Pollution Act

On June 10, 2019, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Western District of Washington in the lawsuit entitled *United States, State of Washington, Suquamish Tribe, and Muckleshoot Indian Tribe v. Earle M. Jorgensen Company*, Civil Action No. 19-cv-00907.

The proposed Consent Decree resolves claims alleged against the Defendant for natural resource damages caused by releases and discharges of hazardous substances and oil from its formerly owned and operated facility to the Lower Duwamish River in and near Seattle, Washington. The settlement requires Defendant to pay its equitable share of total natural resource damages estimated for the Lower Duwamish River, for purposes of early settlements, and assessment costs incurred by the Natural Resource Trustees. The Consent Decree requires Defendant to pay \$1.3 million for natural resource damages and reimburse past assessment costs incurred by the Trustees totaling \$75,538.96. The Defendant will receive a covenant not to sue under the Clean Water Act; the Oil Pollution Act; the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"); and the State of Washington Model Toxics Control Act for natural resource damages caused by releases and discharges from its formerly owned and operated facility to the Lower Duwamish River.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States, State of Washington, Suquamish Tribe, and Muckleshoot Indian Tribe v. Earle M. Jorgensen Company*, D.J. Ref. No. 90-11-3-07227/3. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	<i>pubcomment-ees.enrd@usdoj.gov.</i>

<i>To submit comments:</i>	<i>Send them to:</i>
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please enclose a check or money order for \$8.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Susan M. Akers,
Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2019-12673 Filed 6-14-19; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF JUSTICE

Notice of Extension of Public Comment Period for Consent Decree Under the Clean Air Act

On February 8, 2019, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of Alabama in the lawsuit entitled *United States et al. v. Drummond Company, Inc. d/b/a ABC Coke (Drummond)*, Civil Action No. 2:19-cv-00240-AKK. The United States is joined in this matter by its co-plaintiff the Jefferson County Board of Health (JCBH). At the request of members of the public, DOJ is extending the public comment period for an additional 30 days.

This case relates to alleged releases of benzene from Drummond's coke by-product recovery plant in Tarrant, Alabama (Facility). The case involves claims for civil penalties and injunctive relief under the Clean Air Act, 42 U.S.C. 7401 *et seq.*, and its implementing regulations known as National Emission Standards for Hazardous Air Pollutants (NESHAPs), including 40 CFR part 61, subpart L (Benzene Emissions from Coke By-product Recovery Plants), Subpart V (Equipment Leaks and Fugitive Emissions), and Subpart FF (Benzene Waste Operations), as well as related claims under laws promulgated by the Jefferson County Board of Health.

The settlement resolves the alleged claims by requiring Drummond to, among other things: (1) Pay a civil penalty of \$775,000 for the past alleged violations to be split equally between the United States and JCBH; (2) undertake fixes to the Facility to address the alleged violations; (3) implement a leak detection and repair program to ensure compliance and reduce potential future fugitive benzene emissions; and (4) implement a supplemental environmental project of two years of semi-annual use of an infrared camera as part of leak detection efforts at a cost of \$16,000.

Notice of the lodging of the decree was originally published in the **Federal Register** on February 14, 2019. See 84 FR 4104 (February 14, 2019). The publication of the original notice opened a thirty (30) day period for public comment on the Decree. The public comment period was extended until June 17, 2019. 84 FR 9,560 (March 15, 2019); 84 FR 16,038 (April 17, 2019); 84 FR 22,168 (May 16, 2019). The publication of the present notice extends the period for public comment on the Decree to July 17, 2019.

Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States et al. v. Drummond Company, Inc. d/b/a ABC Coke*, D.J. Ref. No. 90–5–2–1–10717. All comments must be submitted no later than July 17, 2019. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	<i>pubcomment-ees.enrd@usdoj.gov.</i>
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for \$10.00 (25 cents per page

reproduction cost) payable to the United States Treasury.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2019–12635 Filed 6–14–19; 8:45 am]

BILLING CODE 4410–CW–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection

AGENCY: Bureau of Justice Assistance, Office of Justice Programs, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice, Bureau of Justice Assistance, is submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The Department of Justice encourages public comment and will accept input until July 17, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gregory Torain, Policy Advisor, Office of Justice Programs, Bureau of Justice Assistance, 810 Seventh Street NW, Washington, DC 20531, *Gregory.Torain@usdoj.gov*, 202–305–4485. Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice

Assistance, including whether the information will have practical utility; —Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; —Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and —Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* New collection.
2. *The Title of the Form/Collection:* Annual Treatment Court Survey Series.
3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The applicable component within the Department of Justice is the Bureau of Justice Assistance.
4. *Affected public who will be asked or required to respond, as well as a brief abstract:* The Local ATCS (N=4,172 courts), Tribal ATCS (N=117 courts), and State Coordinator (N=54 state/territory court coordinators) address the structure (e.g., funding, personnel, partnerships), operation (e.g., services offered, eligibility, decision making), and successes and challenges (e.g., adherence to or deviance from best practices; racial, ethnic, and gender disparity or equity). The purpose of the ATCS is to develop a current portrait of treatment courts including needs and emerging trends.
5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Overall, the ATCS Series uses three national population frames, totaling 4,343 courts and offices for court administration. Data collection uses these full population frames; samples from these population frames are not created for collection purposes. The national population frame for the Local ATCS contains each of the treatment courts across the country (N=4,172) with one respondent from each court, and the tribal courts across the country constitute the population frame for the Tribal ATCS (N=117) with one respondent from each court. All state/territory court coordinators (N=54) comprise the population frame for the

State Coordinator ATCS. Estimated amounts of time to complete the surveys in the ATCS Series are 20 minutes for the State Coordinator ATCS, 35 minutes for the Local ATCSs, and 35 for the Tribal ATCS.

6. *An estimate of the total public burden (in hours) associated with the collection:* Using the maximum response rate of 100%, the total annual hours for the ATCS Series is approximately 2,502 hours across the 4,343 courts in the population frames. Specifically, total completion time of the State Coordinator ATCS is an estimated 18 hours (20 minutes for each of the 54 potential respondents); the Local ATCS's total completion time is estimated at 2,433.67 hours (35 minutes for each of the 4,172 potential courts). The total time to complete the Tribal ATCS across the tribal population frame is 68.25 hours (35 minutes for each of the 117 tribal courts).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: June 12, 2019.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019-12684 Filed 6-14-19; 8:45 am]

BILLING CODE 4410-18-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before July 17, 2019.

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *Electronic Mail:* zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202-693-9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202-693-9447 (Voice), barron.barbara@dol.gov (Email), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor (Secretary) determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M-2019-002-C.

Petitioner: Cumberland Contura, LLC, Three Gateway Center, Suite 1500, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222-1000.

Mine: Cumberland Mine, MSHA I.D. No. 36-05018, located in Greene County, Pennsylvania.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing

standard to permit an alternative method of compliance to allow the use of nonpermissible electronic surveying equipment including, but not limited to, portable battery-operated mine transits and total station surveying equipment, in or inby the last open crosscut.

The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) The Cumberland Mine utilizes the longwall method of mining. The panels it develops are approximately 12,000 to 15,000 feet in length.

(3) Accurate surveying is critical to the safety of the miners at the mine. A surveying error in a longwall panel could result in the need to remove or add longwall shields during the longwall retrieval process which would be very hazardous.

(4) Mechanical surveying equipment of acceptable quality is not commercially available and has been obsolete for a number of years. Such equipment is difficult, if not impossible, to be serviced or repaired.

(5) Nonpermissible electronic surveying equipment is, at a minimum, much more accurate than mechanical surveying equipment. To comply with Pennsylvania laws on the accuracy of surveying, it is necessary to use electronic surveying equipment.

(6) Application of the existing standard would result in a diminution of safety to miners. Underground mining by its nature, size and complexity of mine plans requires that accurate and precise measurements be completed in a prompt and efficient manner.

As an alternative to the existing standard, the petitioner proposes the following:

(a) The operator may use the following total stations and theodolites and similar low-voltage battery-operated total stations and theodolites with an ingress protection (IP) rating of 66 or greater in or inby the last open crosscut.

—Topcon GTS-233W 7.2V

—Topcon GTS-223 7.2V

—Topcon DT-205L 6.0V

—Topcon DT-102L 6.0V

—Topcon DT-205L 6.0V

(b) The nonpermissible electronic surveying equipment that will be used is low-voltage or battery-powered nonpermissible total stations and theodolites. All nonpermissible electronic total stations and theodolites will have an IP rating of 66 or greater.

(c) The operator will maintain a logbook for nonpermissible electronic

surveying equipment with the equipment, or in the location where mine record books are kept, or in the location where the surveying record books are kept. The logbook will contain the date of manufacture and/or purchase of each particular piece of nonpermissible electronic surveying equipment. The logbook will be made available to MSHA on request.

(d) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined by the person who operates the equipment prior to taking the equipment underground to ensure the equipment is being maintained in a safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case;

(ii) Removing the battery and inspecting for corrosion;

(iii) Inspecting the contact points to ensure a secure connection to the battery;

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections; and

(v) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(e) The nonpermissible electronic surveying equipment will be examined at least weekly by a qualified person as defined in 30 CFR 75.153. The examination results will be recorded weekly in the equipment logbook. Examination entries in the logbook will be maintained for at least 1 year.

(f) The operator will ensure that all nonpermissible electronic surveying equipment is serviced according to the manufacturer's recommendations. Dates of service will be recorded in the equipment's logbook and will include a description of the work performed.

(g) The nonpermissible electronic surveying equipment used in or inby the last open crosscut will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the PDO.

(h) Nonpermissible electronic surveying equipment will not be used if methane is detected in concentrations at or above 1.0 percent. When 1.0 percent or more methane is detected while such equipment is being used, the equipment will be de-energized immediately and withdrawn outby the last open crosscut. All requirements of 30 CFR 75.323 will be complied with prior to entering in or inby the last open crosscut.

(i) Prior to setting up and energizing nonpermissible electronic surveying equipment in or inby the last open

crosscut, the surveyor(s) will conduct a visual examination of the immediate area for evidence that the area appears to be sufficiently rock-dusted and for the presence of accumulated float coal dust. If the rock-dusting appears insufficient or the presence of accumulated float coal dust is observed, the equipment will not be energized until sufficient rock-dust has been applied and/or the accumulations of float coal dust have been cleaned up. If nonpermissible electronic surveying equipment is to be used in an area not rock-dusted within 40 feet of a working face where a continuous mining machine is used, the area will be rock-dusted prior to energizing the nonpermissible electronic surveying equipment.

(j) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition, as defined in 30 CFR 75.320. All methane detectors will provide visual and audible warnings when methane is detected at or above 1.0 percent.

(k) Prior to energizing nonpermissible electronic surveying equipment in or inby the last open crosscut, methane tests will be made in accordance with 30 CFR 75.323. Nonpermissible electronic surveying equipment will not be used in or inby the last open crosscut when production is occurring.

(l) Prior to surveying, the area will be examined, according to 30 CFR 75.360. If the area has not been examined, a supplemental examination according to 30 CFR 75.361 will be performed before any non-certified person enters the area.

(m) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic surveying equipment in or inby the last open crosscut. If there are two people in the surveying crew, both persons will continuously monitor for methane. The other person will either be a qualified person, as defined in 30 CFR 75.151, or be in the process of being trained to be a qualified person but has yet to make such tests for a period of 6 months, as required in 30 CFR 75.150. Upon completion of the 6-month training period, the second person on the surveying crew must become qualified, as defined in 30 CFR 75.151, in order to continue on the surveying crew. If the surveying crew consists of one person, that person will monitor for methane with two separate devices.

(n) Batteries contained in the nonpermissible electronic surveying equipment will be changed out or charged in intake air outby the last open

crosscut. Replacement batteries will be carried only in the compartment provided for a spare battery in the nonpermissible electronic surveying equipment carrying case. Before each shift of surveying, all batteries for the nonpermissible electronic surveying equipment will be charged sufficiently so that they are not expected to be replaced on that shift.

(o) When using nonpermissible electronic surveying equipment in or inby the last open crosscut, the surveyor will confirm by measurement or by inquiry of the person in charge of the section, that the air quantity on the section, on that shift, and in the last open crosscut is at least the minimum quantity that is required by the mine's ventilation plan.

(p) Personnel engaged in the use of nonpermissible electronic surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of such equipment in areas where methane could be present.

(q) All members of the surveying crew will receive specific training on the terms and conditions of the PDO before using nonpermissible electronic surveying equipment in or inby the last open crosscut. A record of the training will be kept with the other training records.

(r) Within 60 days after the PDO becomes final, the operator will submit proposed revisions for its approved 30 CFR part 48 training plans to the District Manager. These revisions will specify initial and refresher training regarding the terms and conditions of the PDO. When training is conducted on the terms and conditions in the PDO, an MSHA Certificate of Training (Form 5000-23) will be completed and will indicate that it was surveyor training.

(s) The operator will replace or retire from service any electronic surveying instrument that was acquired prior to December 31, 2004 within 1 year of the PDO becoming final. The operator will replace or retire from service any electronic surveying instrument that was acquired between January 1, 2005 and December 31, 2010 within 2 years of the PDO becoming final. Within 3 years of the date that the PDO becomes final, the operator will replace or retire from service any theodolite that was acquired more than 5 years prior to the date that the PDO became final or any total station or other electronic surveying equipment identified in the PDO acquired more than 10 years prior to the date that the PDO became final. After 5 years, the operator will maintain a cycle of purchasing new electronic surveying equipment whereby

theodolites will be no older than 5 years from date of manufacture and total stations and other electronic surveying equipment will be no older than 10 years from date of manufacture.

(t) The operator will ensure that all surveying contractors hired by the operator are using nonpermissible electronic surveying equipment in accordance with the requirements in the PDO. The conditions of use in the PDO will apply to all nonpermissible electronic surveying equipment used in or in by the last open crosscut, regardless of whether the equipment is used by the operator or by an independent contractor.

(u) The petitioner states that it may use nonpermissible electronic surveying equipment when production is occurring, subject to the following conditions:

—On a mechanized mining unit (MMU) where production is occurring, nonpermissible electronic surveying equipment will not be used downwind of the discharge point of any face ventilation controls, such as tubing (including controls such as “baloney skins”) or curtains.

—Production may continue while nonpermissible electronic surveying equipment is used, if the surveying equipment is used in a separate split of air from where production is occurring.

—Nonpermissible electronic surveying equipment will not be used in a split of air ventilating an MMU if any ventilation controls will be disrupted during such surveying. Disruption of ventilation controls means any change to the mine’s ventilation system that causes the ventilation system not to function in accordance with the mine’s approved ventilation plan.

—If, while surveying, a surveyor must disrupt ventilation, the surveyor will cease surveying and communicate to the section foreman that ventilation must be disrupted. Production will stop while ventilation is disrupted. Ventilation controls will be reestablished immediately after the disruption is no longer necessary. Production can only resume after all ventilation controls are reestablished and are in compliance with approved ventilation or other plans, and other applicable laws, standards, or regulations.

—Any disruption in ventilation will be recorded in the logbook required by the PDO. The logbook will include a description of the nature of the disruption, the location of the disruption, the date and time of the disruption and the date and time the

surveyor communicated the disruption to the section foreman, the date and time production ceased, the date and time ventilation was reestablished, and the date and time production resumed.

—All surveyors, section foremen, section crew members, and other personnel who will be involved with or affected by surveying operations will receive training in accordance with 30 CFR 48.7 on the requirements of the PDO within 60 days of the date the PDO becomes final. The training will be completed before any nonpermissible electronic surveying equipment can be used while production is occurring. The operator will keep a record of the training and provide the record to MSHA on request.

—The operator will provide annual retraining to all personnel who will be involved with or affected by surveying operations in accordance with 30 CFR 48.8. The operator will train new miners on the requirements of the PDO in accordance with 30 CFR 48.5, and will train experienced miners, as defined in 30 CFR 48.6, on the requirements of the PDO in accordance with 30 CFR 48.6. The operator will keep a record of the training and provide the record to MSHA on request.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2019–003–C.

Petitioner: Cumberland Contura, LLC, Three Gateway Center, Suite 1500, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Cumberland Mine, MSHA I.D. No. 36–05018, located in Greene County, Pennsylvania.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; out by the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of nonpermissible electronic surveying equipment including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers, in return airways.

The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) The Cumberland Mine utilizes the longwall method of mining. The panels it develops are approximately 12,000 to 15,000 feet in length.

(3) Accurate surveying is critical to the safety of the miners at the mine. A surveying error in a longwall panel could result in the need to remove or add longwall shields during the longwall retrieval process which would be very hazardous.

(4) Mechanical surveying equipment of acceptable quality is not commercially available and has been obsolete for a number of years. Such equipment is difficult, if not impossible, to be serviced or repaired.

(5) Electronic surveying equipment is, at a minimum, much more accurate than mechanical equipment. To comply with Pennsylvania laws on the accuracy of surveying, it is necessary to use electronic surveying equipment.

(6) Application of the existing standard would result in a diminution of safety to miners. Underground mining by its nature, size and complexity of mine plans requires that accurate and precise measurements be completed in a prompt and efficient manner.

As an alternative to the existing standard, the petitioner proposes the following:

(a) The operator may use the following total stations and theodolites and similar low-voltage battery-operated total stations and theodolites with an ingress protection (IP) rating of 66 or greater in return airways.

—Topcon GTS–233W 7.2V

—Topcon GTS–223 7.2V

—Topcon DT–205L 6.0V

—Topcon DT–102L 6.0V

—Topcon DT–205L 6.0V

(b) The nonpermissible electronic surveying equipment that will be used is low-voltage or battery-powered nonpermissible total stations and theodolites. All nonpermissible electronic total stations and theodolites will have an IP rating of 66 or greater.

(c) The operator will maintain a logbook for nonpermissible electronic surveying equipment with the equipment, or in the location where mine record books are kept or in the location where the surveying record books are kept. The logbook will contain the date of manufacture and/or purchase of each particular piece of electronic surveying equipment. The logbook will be made available to MSHA on request.

(d) All nonpermissible electronic surveying equipment to be used in return airways will be examined by the person who operates the equipment prior to taking the equipment

underground to ensure the equipment is being maintained in a safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case;

(ii) Removing the battery and inspecting for corrosion;

(iii) Inspecting the contact points to ensure a secure connection to the battery;

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections; and

(v) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(e) The nonpermissible electronic surveying equipment will be examined at least weekly by a qualified person as defined in 30 CFR 75.153. The examination results will be recorded weekly in the equipment logbook. Examination entries in the logbook will be maintained for at least 1 year.

(f) The operator will ensure that all nonpermissible electronic surveying equipment is serviced according to the manufacturer's recommendations. Dates of service will be recorded in the equipment's logbook and will include a description of the work performed.

(g) The nonpermissible electronic surveying equipment used in return airways will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the PDO.

(h) Nonpermissible electronic surveying equipment will not be used if methane is detected in concentrations at or above 1.0 percent. When 1.0 percent or more methane is detected while such equipment is being used, the equipment will be de-energized immediately and withdrawn out of return airways. All requirements of 30 CFR 75.323 will be complied with prior to entering in return airways.

(i) Prior to setting up and energizing nonpermissible electronic surveying equipment in return airways, the surveyor(s) will conduct a visual examination of the immediate area for evidence that the area appears to be sufficiently rock-dusted and for the presence of accumulated float coal dust. If the rock-dusting appears insufficient or the presence of accumulated float coal dust is observed, the equipment will not be energized until sufficient rock-dust has been applied and/or the accumulations of float coal dust have been cleaned up. If nonpermissible electronic surveying equipment is to be used in an area not rock-dusted within 40 feet of a working face where a

continuous mining machine is used, the area will be rock-dusted prior to energizing the nonpermissible electronic surveying equipment.

(j) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition, as defined in 30 CFR 75.320. All methane detectors will provide visual and audible warnings when methane is detected at or above 1.0 percent.

(k) Prior to energizing nonpermissible electronic surveying equipment in return airways, methane tests will be made in accordance with 30 CFR 75.323. Nonpermissible electronic surveying equipment will not be used in return airways when production is occurring.

(l) Prior to surveying, the area will be examined, according to 30 CFR 75.360. If the area has not been examined, a supplemental examination according to 30 CFR 75.361 will be performed before any non-certified person enters the area.

(m) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic surveying equipment in return airways. If there are two people in the surveying crew, both persons will continuously monitor for methane. The other person will either be a qualified person, as defined in 30 CFR 75.151, or be in the process of being trained to be a qualified person but has yet to make such tests for a period of 6 months, as required in 30 CFR 75.150. Upon completion of the 6-month training period, the second person on the surveying crew must become qualified, as defined in 30 CFR 75.151, in order to continue on the surveying crew. If the surveying crew consists of one person, that person will monitor for methane with two separate devices.

(n) Batteries contained in the nonpermissible electronic surveying equipment will be changed out or charged in fresh air out of the return airways. Replacement batteries will be carried only in the compartment provided for a spare battery in the nonpermissible electronic surveying equipment carrying case. Before each shift of surveying, all batteries for the nonpermissible electronic surveying equipment will be charged sufficiently so that they are not expected to be replaced on that shift.

(o) When using nonpermissible electronic surveying equipment in return airways, the surveyor will confirm by measurement or by inquiry of the person in charge of the section, that the air quantity on the section, on that shift, in return airways is at least

the minimum quantity that is required by the mine's ventilation plan.

(p) Personnel engaged in the use of nonpermissible electronic surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of such equipment in areas where methane could be present.

(q) All members of the surveying crew will receive specific training on the terms and conditions of the PDO before using nonpermissible electronic surveying equipment in return airways. A record of the training will be kept with the other training records.

(r) Within 60 days after the PDO becomes final, the operator will submit proposed revisions for its approved 30 CFR part 48 training plans to the District Manager. These revisions will specify initial and refresher training regarding the terms and conditions of the PDO. When training is conducted on the terms and conditions in the PDO, an MSHA Certificate of Training (Form 5000-23) will be completed and will indicate that it was surveyor training.

(s) The operator will replace or retire from service any electronic surveying instrument that was acquired prior to December 31, 2004 within 1 year of the PDO becoming final. The operator will replace or retire from service any electronic surveying instrument that was acquired between January 1, 2005 and December 31, 2010 within 2 years of the PDO becoming final. Within 3 years of the date that the PDO becomes final, the operator will replace or retire from service any theodolite that was acquired more than 5 years prior to the date that the PDO became final or any total station or other electronic surveying equipment identified in the PDO acquired more than 10 years prior to the date that the PDO became final. After 5 years, the operator will maintain a cycle of purchasing new electronic surveying equipment whereby theodolites will be no older than 5 years from date of manufacture and total stations and other electronic surveying equipment will be no older than 10 years from date of manufacture.

(t) The operator will ensure that all surveying contractors hired by the operator are using nonpermissible electronic surveying equipment in accordance with the requirements in the PDO. The conditions of use in the PDO will apply to all nonpermissible electronic surveying equipment used in return airways, regardless of whether the equipment is used by the operator or by an independent contractor.

(u) The petitioner states that it may use nonpermissible electronic surveying equipment when production is

occurring, subject to the following conditions:

- On a mechanized mining unit (MMU) where production is occurring, nonpermissible electronic surveying equipment will not be used downwind of the discharge point of any face ventilation controls, such as tubing (including controls such as “baloney skins”) or curtains.
- Production may continue while nonpermissible electronic surveying equipment is used, if the surveying equipment is used in a separate split of air from where production is occurring.
- Nonpermissible electronic surveying equipment will not be used in a split of air ventilating an MMU if any ventilation controls will be disrupted during such surveying. Disruption of ventilation controls means any change to the mine’s ventilation system that causes the ventilation system not to function in accordance with the mine’s approved ventilation plan.
- If, while surveying, a surveyor must disrupt ventilation, the surveyor will cease surveying and communicate to the section foreman that ventilation must be disrupted. Production will stop while ventilation is disrupted. Ventilation controls will be reestablished immediately after the disruption is no longer necessary. Production can only resume after all ventilation controls are reestablished and are in compliance with approved ventilation or other plans, and other applicable laws, standards, or regulations.
- Any disruption in ventilation will be recorded in the logbook required by the PDO. The logbook will include a description of the nature of the disruption, the location of the disruption, the date and time of the disruption and the date and time the surveyor communicated the disruption to the section foreman, the date and time production ceased, the date and time ventilation was reestablished, and the date and time production resumed.
- All surveyors, section foremen, section crew members, and other personnel who will be involved with or affected by surveying operations will receive training in accordance with 30 CFR 48.7 on the requirements of the PDO within 60 days of the date the PDO becomes final. The training will be completed before any nonpermissible electronic surveying equipment can be used while production is occurring. The operator will keep a record of the training and provide the record to MSHA on request.

—The operator will provide annual retraining to all personnel who will be involved with or affected by surveying operations in accordance with 30 CFR 48.8. The operator will train new miners on the requirements of the PDO in accordance with 30 CFR 48.5, and will train experienced miners, as defined in 30 CFR 48.6, on the requirements of the PDO in accordance with 30 CFR 48.6. The operator will keep a record of the training and provide the record to MSHA on request.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2019–004–C.

Petitioner: Cumberland Contura, LLC, Three Gateway Center, Suite 1500, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mines: Cumberland Mine, MSHA I.D. No. 36–05018, located in Greene County, Pennsylvania.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of nonpermissible electronic surveying equipment including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers, within 150 feet of pillar workings and longwall faces.

The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary. To ensure the safety of the miners in active mines and to protect miners in future mines that may mine in close proximity to these same active mines, it is necessary to determine the exact location and extent of the mine workings.

(2) The Cumberland Mine utilizes the longwall method of mining. The panels it develops are approximately 12,000 to 15,000 feet in length.

(3) Accurate surveying is critical to the safety of the miners at the mine. A surveying error in a longwall panel could result in the need to remove or add longwall shields during the longwall retrieval process which would be very hazardous.

(4) Mechanical surveying equipment of acceptable quality is not

commercially available and has been obsolete for a number of years. Such equipment is difficult, if not impossible, to be serviced or repaired.

(5) Electronic surveying equipment is, at a minimum, much more accurate than mechanical equipment. To comply with Pennsylvania laws on the accuracy of surveying, it is necessary to use electronic surveying equipment.

(6) Application of the existing standard would result in a diminution of safety to miners. Underground mining by its nature, size and complexity of mine plans requires that accurate and precise measurements be completed in a prompt and efficient manner.

As an alternative to the existing standard, the petitioner proposes the following:

(a) The operator may use the following total stations and theodolites and similar low-voltage battery-operated total stations and theodolites with an ingress protection (IP) rating of 66 or greater within 150 feet of pillar workings or longwall faces.

—Topcon GTS–233W 7.2V

—Topcon GTS–223 7.2V

—Topcon DT–205L 6.0V

—Topcon DT–102L 6.0V

—Topcon DT–205L 6.0V

(b) The nonpermissible electronic surveying equipment that will be used is low-voltage or battery-powered nonpermissible total stations and theodolites. All nonpermissible electronic total stations and theodolites will have an IP rating of 66 or greater.

(c) The operator will maintain a logbook for nonpermissible electronic surveying equipment with the equipment, or in the location where mine record books are kept or in the location where the surveying record books are kept. The logbook will contain the date of manufacture and/or purchase of each particular piece of nonpermissible electronic surveying equipment. The logbook will be made available to MSHA on request.

(d) All nonpermissible electronic surveying equipment to be used within 150 feet of pillar workings or longwall faces will be examined by the person who operates the equipment prior to taking the equipment underground to ensure the equipment is being maintained in a safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case;

(ii) Removing the battery and inspecting for corrosion;

(iii) Inspecting the contact points to ensure a secure connection to the battery;

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections; and

(v) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(e) The nonpermissible electronic surveying equipment will be examined at least weekly by a qualified person as defined in 30 CFR 75.153. The examination results will be recorded weekly in the equipment logbook. Examination entries in the logbook will be maintained for at least 1 year.

(f) The operator will ensure that all nonpermissible electronic surveying equipment is serviced according to the manufacturer's recommendations. Dates of service will be recorded in the equipment's logbook and will include a description of the work performed.

(g) The nonpermissible electronic surveying equipment used within 150 feet of pillar workings and longwall faces will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the PDO.

(h) Nonpermissible electronic surveying equipment will not be used if methane is detected in concentrations at or above 1.0 percent. When 1.0 percent or more methane is detected while such equipment is being used, the equipment will be de-energized immediately and withdrawn further than 150 feet from pillar workings and longwall faces. All requirements of 30 CFR 75.323 will be complied with prior to entering within 150 feet of pillar workings and longwall faces.

(i) Prior to setting up and energizing nonpermissible electronic surveying equipment within 150 feet of pillar workings or longwall faces, the surveyor(s) will conduct a visual examination of the immediate area for evidence that the area appears to be sufficiently rock-dusted and for the presence of accumulated float coal dust. If the rock-dusting appears insufficient or the presence of accumulated float coal dust is observed, the equipment will not be energized until sufficient rock-dust has been applied and/or the accumulations of float coal dust have been cleaned up. If nonpermissible electronic surveying equipment is to be used in an area not rock-dusted within 40 feet of a working face where a continuous mining machine is used, the area will be rock-dusted prior to energizing the nonpermissible electronic surveying equipment.

(j) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition, as defined in 30 CFR 75.320. All methane detectors will provide visual and audible warnings when methane is detected at or above 1.0 percent.

(k) Prior to energizing nonpermissible electronic surveying equipment within 150 feet of pillar workings and longwall faces, methane tests will be made in accordance with 30 CFR 75.323.

Nonpermissible electronic surveying equipment will not be used within 150 feet of pillar workings and longwall faces when production is occurring.

(l) Prior to surveying, the area will be examined, according to 30 CFR 75.360. If the area has not been examined, a supplemental examination according to 30 CFR 75.361 will be performed before any non-certified person enters the area.

(m) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic surveying equipment within 150 feet of pillar workings and longwall faces. If there are two people in the surveying crew, both persons will continuously monitor for methane. The other person will either be a qualified person, as defined in 30 CFR 75.151, or be in the process of being trained to be a qualified person but has yet to make such tests for a period of 6 months, as required in 30 CFR 75.150. Upon completion of the 6-month training period, the second person on the surveying crew must become qualified, as defined in 30 CFR 75.151, in order to continue on the surveying crew. If the surveying crew consists of one person, that person will monitor for methane with two separate devices.

(n) Batteries contained in the nonpermissible electronic surveying equipment will be changed out or charged in fresh air more than 150 feet from pillar workings or longwall faces. Replacement batteries will be carried only in the compartment provided for a spare battery in the nonpermissible electronic surveying equipment carrying case. Before each shift of surveying, all batteries for the nonpermissible electronic surveying equipment will be charged sufficiently so that they are not expected to be replaced on that shift.

(o) When using nonpermissible electronic surveying equipment within 150 feet of pillar workings or longwall faces, the surveyor will confirm by measurement or by inquiry of the person in charge of the section, that the air quantity on the section, on that shift, within 150 feet of pillar workings or longwall faces is at least the minimum

quantity that is required by the mine's ventilation plan.

(p) Personnel engaged in the use of nonpermissible electronic surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of such equipment in areas where methane could be present.

(q) All members of the surveying crew will receive specific training on the terms and conditions of the PDO before using nonpermissible electronic surveying equipment within 150 feet of pillar workings or longwall faces. A record of the training will be kept with the other training records.

(r) Within 60 days after the PDO becomes final, the operator will submit proposed revisions for its approved 30 CFR part 48 training plans to the District Manager. These revisions will specify initial and refresher training regarding the terms and conditions of the PDO. When training is conducted on the terms and conditions in the PDO, an MSHA Certificate of Training (Form 5000-23) will be completed and will indicate that it was surveyor training.

(s) The operator will replace or retire from service any electronic surveying instrument that was acquired prior to December 31, 2004 within 1 year of the PDO becoming final. The operator will replace or retire from service any electronic surveying instrument that was acquired between January 1, 2005 and December 31, 2010 within 2 years of the PDO becoming final. Within 3 years of the date that the PDO becomes final, the operator will replace or retire from service any theodolite that was acquired more than 5 years prior to the date that the PDO became final or any total station or other electronic surveying equipment identified in the PDO acquired more than 10 years prior to the date that the PDO became final. After 5 years, the operator will maintain a cycle of purchasing new electronic surveying equipment whereby theodolites will be no older than 5 years from date of manufacture and total stations and other electronic surveying equipment will be no older than 10 years from date of manufacture.

(t) The operator will ensure that all surveying contractors hired by the operator are using nonpermissible electronic surveying equipment in accordance with the requirements in the PDO. The conditions of use in the PDO will apply to all nonpermissible electronic surveying equipment used within 150 feet of pillar workings or longwall faces, regardless of whether the equipment is used by the operator or by an independent contractor.

(u) The petitioner states that it may use nonpermissible electronic surveying equipment when production is occurring, subject to the following conditions:

- On a mechanized mining unit (MMU) where production is occurring, nonpermissible electronic surveying equipment will not be used downwind of the discharge point of any face ventilation controls, such as tubing (including controls such as “baloney skins”) or curtains.
- Production may continue while nonpermissible electronic surveying equipment is used, if the surveying equipment is used in a separate split of air from where production is occurring.
- Nonpermissible electronic surveying equipment will not be used in a split of air ventilating an MMU if any ventilation controls will be disrupted during such surveying. Disruption of ventilation controls means any change to the mine’s ventilation system that causes the ventilation system not to function in accordance with the mine’s approved ventilation plan.
- If, while surveying, a surveyor must disrupt ventilation, the surveyor will cease surveying and communicate to the section foreman that ventilation must be disrupted. Production will stop while ventilation is disrupted. Ventilation controls will be reestablished immediately after the disruption is no longer necessary. Production can only resume after all ventilation controls are reestablished and are in compliance with approved ventilation or other plans, and other applicable laws, standards, or regulations.
- Any disruption in ventilation will be recorded in the logbook required by the PDO. The logbook will include a description of the nature of the disruption, the location of the disruption, the date and time of the disruption and the date and time the surveyor communicated the disruption to the section foreman, the date and time production ceased, the date and time ventilation was reestablished, and the date and time production resumed.
- All surveyors, section foremen, section crew members, and other personnel who will be involved with or affected by surveying operations will receive training in accordance with 30 CFR 48.7 on the requirements of the PDO within 60 days of the date the PDO becomes final. The training will be completed before any nonpermissible electronic surveying equipment can be used while

production is occurring. The operator will keep a record of the training and provide the record to MSHA on request.

- The operator will provide annual retraining to all personnel who will be involved with or affected by surveying operations in accordance with 30 CFR 48.8. The operator will train new miners on the requirements of the PDO in accordance with 30 CFR 48.5, and will train experienced miners, as defined in 30 CFR 48.6, on the requirements of the PDO in accordance with 30 CFR 48.6. The operator will keep a record of the training and provide the record to MSHA on request.

The petitioner asserts the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Sheila McConnell,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2019–12686 Filed 6–14–19; 8:45 am]

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA’s Office of Standards, Regulations, and Variances on or before July 17, 2019.

ADDRESSES: You may submit your comments, identified by “docket number” on the subject line, by any of the following methods:

1. *Electronic Mail:* zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.
2. *Facsimile:* 202–693–9441.
3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are

required to check in at the receptionist’s desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202–693–9447 (Voice), barron.barbara@dol.gov (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor (Secretary) determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2019–007–C.

Petitioner: Rockwell Mining, LLC, Three Gateway Center, Suite 1500, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Eagle 3 Mine, MSHA I.D. No. 46–09427, located in Wyoming County, West Virginia.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of battery-powered nonpermissible surveying equipment in or in by the last open crosscut, including, but not limited to portable battery-operated mine transits, and total station surveying equipment.

The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) The operator utilizes the continuous mining method. Accurate surveying is critical to the safety of the miners at the mine.

(3) Mechanical surveying equipment has been obsolete for a number of years. Such equipment of acceptable quality is not commercially available. Further, it is difficult, if not impossible, to have such equipment serviced or repaired.

(4) Electronic surveying equipment is, at a minimum, 8–10 times more accurate than mechanical equipment.

(5) Application of the existing standard would result in a diminution of safety to miners. Underground mining by its nature, size, and complexity of mine plans requires that accurate and precise measurements be completed in a prompt and efficient manner.

As an alternative to the existing standard, the petitioner proposes the following:

(a) The operator may use the following total stations and theodolites and similar low-voltage battery-operated total stations and theodolites if they have an ingress protection (IP) rating of 66 or greater in or inby the last open crosscut, subject to the Proposed Decision and Order (PDO):

—TopCon GPT 3005LW

(b) The nonpermissible electronic surveying equipment to be used is low-voltage or battery-powered nonpermissible total stations and theodolites. All nonpermissible electronic total stations and theodolites will have an IP 66 or greater rating.

(c) The operator will maintain a logbook for electronic surveying equipment with the equipment, or in the location where mine record books are kept, or in the location where the surveying record books are kept. The logbook will contain the date of manufacture and/or purchase of each particular piece of electronic surveying equipment. The logbook will be made available to MSHA on request.

(d) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined by the person who operates the equipment prior to taking the equipment underground to ensure the equipment is being maintained in a safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case;

(ii) Removing the battery and inspecting for corrosion;

(iii) Inspecting the contact points to ensure a secure connection to the battery;

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections; and

(v) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(e) The equipment will be examined at least weekly by a qualified person, as defined in 30 CFR 75.153. The examination results will be recorded weekly in the equipment logbook. Examination entries in the logbook may be expunged after 1 year.

(f) The operator will ensure that all nonpermissible electronic surveying equipment is serviced according to the manufacturer's recommendations. Dates of service will be recorded in the equipment's logbook and will include a description of the work performed.

(g) The nonpermissible electronic surveying equipment used in or inby the last open crosscut will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the PDO.

(h) Nonpermissible electronic surveying equipment will not be used if methane is detected in concentrations at or above 1.0 percent. When 1.0 percent or more methane is detected while such equipment is being used, the equipment will be de-energized immediately and withdrawn outby the last open crosscut. All requirements of 30 CFR 75.323 will be complied with prior to entering in or inby the last open crosscut.

(i) Prior to setting up and energizing nonpermissible electronic surveying equipment in or inby the last open crosscut, the surveyor(s) will conduct a visual examination of the immediate area for evidence that the area appears to be sufficiently rock-dusted and for the presence of accumulated float coal dust. If the rock-dusting appears insufficient or the presence of accumulated float coal dust is observed, the equipment will not be energized until sufficient rock-dust has been applied and/or the accumulations of float coal dust have been cleaned up. If nonpermissible electronic surveying equipment is to be used in an area not rock-dusted within 40 feet of a working face where a continuous mining machine is used, the area will be rock-dusted prior to energizing the nonpermissible electronic surveying equipment.

(j) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper

operating condition, as defined in 30 CFR 75.320. All methane detectors will provide visual and audible warnings when methane is detected at or above 1.0 percent.

(k) Prior to energizing nonpermissible electronic surveying equipment in or inby the last open crosscut, methane tests will be made in accordance with 30 CFR 75.323. Nonpermissible electronic surveying equipment will not be used in or inby the last open crosscut when production is occurring.

(l) Prior to surveying, the area will be examined according to 30 CFR 75.360. If the area has not been examined, a supplemental examination according to 30 CFR 75.361 will be performed before any non-certified person enters the area.

(m) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic surveying equipment in or inby the last open crosscut. If there are two people in the surveying crew, both persons will continuously monitor for methane. The other person will either be a qualified person, as defined in 30 CFR 75.151, or be in the process of being trained to be a qualified person but has yet to make such tests for a period of 6 months, as required in 30 CFR 75.150. Upon completion of the 6-month training period, the second person on the surveying crew will become qualified, as defined in 30 CFR 75.151, in order to continue on the surveying crew. If the surveying crew consists of one person, that person will monitor for methane with two separate devices.

(n) Batteries contained in the nonpermissible electronic surveying equipment will be changed out or charged in intake air outby the last open crosscut. Replacement batteries will be carried only in the compartment provided for a spare battery in the nonpermissible electronic surveying equipment carrying case. Before each shift of surveying, all batteries for the nonpermissible electronic surveying equipment will be charged sufficiently so that they are not expected to be replaced on that shift.

(o) When using nonpermissible electronic surveying equipment in or inby the last open crosscut, the surveyor will confirm by measurement or by inquiry of the person in charge of the section, that the air quantity on the section, on that shift, in the last open crosscut is at least the minimum quantity that is required by the mine's ventilation plan.

(p) Personnel engaged in the use of nonpermissible electronic surveying equipment will be properly trained to

recognize the hazards and limitations associated with the use of such equipment in areas where methane could be present.

(q) All members of the surveying crew will receive specific training on the terms and conditions of the PDO before using nonpermissible electronic surveying equipment in or inby the last open crosscut. A record of the training will be kept with the other training records.

(r) Within 60 days after the PDO becomes final, the operator will submit proposed revisions for its approved 30 CFR part 48 training plans to the District Manager. These revisions will specify initial and refresher training regarding the terms and conditions of the PDO. When training is conducted on the terms and conditions in the PDO, an MSHA Certificate of Training (Form 5000-23) will be completed and will indicate that it was surveyor training.

(s) The operator will replace or retire from service any electronic surveying instrument that was acquired prior to December 31, 2004 within 1 year of the PDO becoming final. Within 3 years of the date that the PDO becomes final, the operator will replace or retire from service any theodolite that was acquired more than 5 years prior to the date that the PDO becomes final or any total station or other electronic surveying equipment identified in the PDO acquired more than 10 years prior to the date that the PDO becomes final. After 5 years, the operator will maintain a cycle of purchasing new electronic surveying equipment whereby theodolites will be no older than 5 years from the date of manufacture and total stations and other electronic surveying equipment will be no older than 10 years from the date of manufacture.

(t) The operator will ensure that all surveying contractors hired by the operator are using nonpermissible electronic surveying equipment in accordance with the requirements in the PDO. The conditions of use in the PDO will apply to all nonpermissible electronic surveying equipment used in or inby the last open crosscut, regardless of whether the equipment is used by the operator or by an independent contractor.

(u) The petitioner states that it may use nonpermissible electronic surveying equipment when production is occurring, subject to the following conditions:

—On a mechanized mining unit (MMU) where production is occurring, nonpermissible electronic surveying equipment will not be used downwind of the discharge point of

any face ventilation controls, such as tubing (including controls such as “baloney skins”) or curtains.

- Production may continue while nonpermissible electronic surveying equipment is used, if the surveying equipment is used in a separate split of air from where production is occurring.
- Nonpermissible electronic surveying equipment will not be used in a split of air ventilating an MMU if any ventilation controls will be disrupted during such surveying. Disruption of ventilation controls means any change to the mine’s ventilation system that causes the ventilation system not to function in accordance with the mine’s approved ventilation plan.
- If, while surveying, a surveyor must disrupt ventilation, the surveyor will cease surveying and communicate to the section foreman that ventilation must be disrupted. Production will stop while ventilation is disrupted. Ventilation controls will be reestablished immediately after the disruption is no longer necessary. Production can only resume after all ventilation controls are reestablished and are in compliance with approved ventilation or other plans, and other applicable laws, standards, or regulations.
- Any disruption in ventilation will be recorded in the logbook required by the PDO. The logbook will include a description of the nature of the disruption, the location of the disruption, the date and time of the disruption and the date and time the surveyor communicated the disruption to the section foreman, the date and time production ceased, the date and time ventilation was reestablished, and the date and time production resumed.
- All surveyors, section foremen, section crew members, and other personnel who will be involved with or affected by surveying operations will receive training in accordance with 30 CFR 48.7 on the requirements of the PDO within 60 days of the date the PDO becomes final. The training will be completed before any nonpermissible electronic surveying equipment can be used while production is occurring. The operator will keep a record of the training and provide the record to MSHA on request.
- The operator will provide annual retraining to all personnel who will be involved with or affected by surveying operations in accordance with 30 CFR 48.8. The operator will train new miners on the requirements of the PDO in accordance with 30 CFR

48.5, and will train experienced miners, as defined in 30 CFR 48.6, on the requirements of the PDO in accordance with 30 CFR 48.6. The operator will keep a record of the training and provide the record to MSHA on request.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2019–008–C.

Petitioner: Rockwell Mining, LLC, Three Gateway Center, Suite 1500, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Eagle 3 Mine, MSHA I.D. No. 46–09427, located in Wyoming County, West Virginia.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of battery-powered nonpermissible surveying equipment including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers, in return airways.

The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) The operator utilizes the continuous mining method. Accurate surveying is critical to the safety of the miners at the mine.

(3) Application of the existing standard would result in a diminution of safety to miners. Underground mining by its nature, size, and complexity of mine plans requires that accurate and precise measurements be completed in a prompt and efficient manner.

As an alternative to the existing standard, the petitioner proposes the following:

(a) The operator may use the following total stations and theodolites and similar low-voltage battery-operated total stations and theodolites if they have an ingress protection (IP) rating of 66 or greater in return airways, subject to the Proposed Decision and Order (PDO):

—TopCon GPT 3005 LW

(b) The nonpermissible electronic surveying equipment to be used is low-voltage or battery-powered

nonpermissible total stations and theodolites. All nonpermissible electronic total stations and theodolites will have an IP 66 or greater rating.

(c) The operator will maintain a logbook for electronic surveying equipment with the equipment, or in the location where mine record books are kept, or in the location where the surveying record books are kept. The logbook will contain the date of manufacture and/or purchase of each particular piece of electronic surveying equipment. The logbook will be made available to MSHA on request.

(d) All nonpermissible electronic surveying equipment to be used in return airways will be examined by the person who operates the equipment prior to taking the equipment underground to ensure the equipment is being maintained in a safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case;

(ii) Removing the battery and inspecting for corrosion;

(iii) Inspecting the contact points to ensure a secure connection to the battery;

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections; and

(v) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(e) The equipment will be examined at least weekly by a qualified person, as defined in 30 CFR 75.153. The examination results will be recorded weekly in the equipment logbook. Examination entries in the logbook may be expunged after 1 year.

(f) The operator will ensure that all nonpermissible electronic surveying equipment is serviced according to the manufacturer's recommendations. Dates of service will be recorded in the equipment's logbook and will include a description of the work performed.

(g) The nonpermissible electronic surveying equipment used in return airways will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the PDO.

(h) Nonpermissible electronic surveying equipment will not be used if methane is detected in concentrations at or above 1.0 percent. When 1.0 percent or more methane is detected while such equipment is being used, the equipment will be de-energized immediately and withdrawn out of return airways. All requirements of 30 CFR 75.323 will be

complied with prior to entering in return airways.

(i) Prior to setting up and energizing nonpermissible electronic surveying equipment in return airways, the surveyor(s) will conduct a visual examination of the immediate area for evidence that the area appears to be sufficiently rock-dusted and for the presence of accumulated float coal dust. If the rock-dusting appears insufficient or the presence of accumulated float coal dust is observed, the equipment will not be energized until sufficient rock-dust has been applied and/or the accumulations of float coal dust have been cleaned up. If nonpermissible electronic surveying equipment is to be used in an area not rock-dusted within 40 feet of a working face where a continuous mining machine is used, the area will be rock-dusted prior to energizing the nonpermissible electronic surveying equipment.

(j) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition, as defined in 30 CFR 75.320. All methane detectors will provide visual and audible warnings when methane is detected at or above 1.0 percent.

(k) Prior to energizing nonpermissible electronic surveying equipment in return airways, methane tests will be made in accordance with 30 CFR 75.323. Nonpermissible electronic surveying equipment will not be used in return airways when production is occurring.

(l) Prior to surveying, the area will be examined according to 30 CFR 75.360. If the area has not been examined, a supplemental examination according to 30 CFR 75.361 will be performed before any non-certified person enters the area.

(m) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic surveying equipment in return airways. If there are two people in the surveying crew, both persons will continuously monitor for methane. The other person will either be a qualified person, as defined in 30 CFR 75.151, or be in the process of being trained to be a qualified person but has yet to make such tests for a period of 6 months, as required in 30 CFR 75.150. Upon completion of the 6-month training period, the second person on the surveying crew must become qualified, as defined in 30 CFR 75.151, in order to continue on the surveying crew. If the surveying crew consists of one person, that person will monitor for methane with two separate devices.

(n) Batteries contained in the nonpermissible electronic surveying equipment will be changed out or charged in fresh air out of the return airways. Replacement batteries will be carried only in the compartment provided for a spare battery in the nonpermissible electronic surveying equipment carrying case. Before each shift of surveying, all batteries for the nonpermissible electronic surveying equipment will be charged sufficiently so that they are not expected to be replaced on that shift.

(o) When using nonpermissible electronic surveying equipment in return airways, the surveyor will confirm by measurement or by inquiry of the person in charge of the section, that the air quantity on the section, on that shift, in return airways is at least the minimum quantity that is required by the mine's ventilation plan.

(p) Personnel engaged in the use of nonpermissible electronic surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of such equipment in areas where methane could be present.

(q) All members of the surveying crew will receive specific training on the terms and conditions of the PDO before using nonpermissible electronic surveying equipment in return airways. A record of the training will be kept with the other training records.

(r) Within 60 days after the PDO becomes final, the operator will submit proposed revisions for its approved 30 CFR part 48 training plans to the District Manager. These revisions will specify initial and refresher training regarding the terms and conditions of the PDO. When training is conducted on the terms and conditions in the PDO, an MSHA Certificate of Training (Form 5000-23) will be completed and will indicate that it was surveyor training.

(s) The operator will replace or retire from service any electronic surveying instrument that was acquired prior to December 31, 2004 within 1 year of the PDO becoming final. Within 3 years of the date that the PDO becomes final, the operator will replace or retire from service any theodolite that was acquired more than 5 years prior to the date that the PDO becomes final or any total station or other electronic surveying equipment identified in the PDO acquired more than 10 years prior to the date that the PDO becomes final. After 5 years, the operator will maintain a cycle of purchasing new electronic surveying equipment whereby theodolites will be no older than 5 years from the date of manufacture and total stations and other electronic surveying

equipment will be no older than 10 years from the date of manufacture.

(t) The operator will ensure that all surveying contractors hired by the operator are using nonpermissible electronic surveying equipment in accordance with the requirements in the PDO. The conditions of use in the PDO will apply to all nonpermissible electronic surveying equipment used in return airways, regardless of whether the equipment is used by the operator or by an independent contractor.

(u) The petitioner states that it may use nonpermissible electronic surveying equipment when production is occurring, subject to the following conditions:

—On a mechanized mining unit (MMU) where production is occurring, nonpermissible electronic surveying equipment will not be used downwind of the discharge point of any face ventilation controls, such as tubing (including controls such as “baloney skins”) or curtains.

—Production may continue while nonpermissible electronic surveying equipment is used, if the surveying equipment is used in a separate split of air from where production is occurring.

—Nonpermissible electronic surveying equipment will not be used in a split of air ventilating an MMU if any ventilation controls will be disrupted during such surveying. Disruption of ventilation controls means any change to the mine’s ventilation system that causes the ventilation system not to function in accordance with the mine’s approved ventilation plan.

—If, while surveying, a surveyor must disrupt ventilation, the surveyor will cease surveying and communicate to the section foreman that ventilation must be disrupted. Production will stop while ventilation is disrupted. Ventilation controls will be reestablished immediately after the disruption is no longer necessary. Production can only resume after all ventilation controls are reestablished and are in compliance with approved ventilation or other plans, and other applicable laws, standards, or regulations.

—Any disruption in ventilation will be recorded in the logbook required by the PDO. The logbook will include a description of the nature of the disruption, the location of the disruption, the date and time of the disruption and the date and time the surveyor communicated the disruption to the section foreman, the date and time production ceased, the date and time ventilation was

reestablished, and the date and time production resumed.

—All surveyors, section foremen, section crew members, and other personnel who will be involved with or affected by surveying operations will receive training in accordance with 30 CFR 48.7 on the requirements of the PDO within 60 days of the date the PDO becomes final. The training will be completed before any nonpermissible electronic surveying equipment can be used while production is occurring. The operator will keep a record of the training and provide the record to MSHA on request.

—The operator will provide annual retraining to all personnel who will be involved with or affected by surveying operations in accordance with 30 CFR 48.8. The operator will train new miners on the requirements of the PDO in accordance with 30 CFR 48.5, and will train experienced miners, as defined in 30 CFR 48.6, on the requirements of the PDO in accordance with 30 CFR 48.6. The operator will keep a record of the training and provide the record to MSHA on request.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2019–009–C.

Petitioner: Rockwell Mining, LLC, Three Gateway Center, Suite 1500, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mines: Eagle 3 Mine, MSHA I.D. No. 46–09427, located in Wyoming County, West Virginia.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of battery-powered nonpermissible surveying equipment including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers, within 150 feet of pillar workings and longwall faces.

The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary. In order to ensure the safety of the miners in active mines and to protect miners in future mines which may mine in close

proximity to these same active mines, it is necessary to determine the exact location and extents of the mine workings.

(2) The operator utilizes the continuous mining method. Accurate surveying is critical to the safety of the miners at the mine.

(3) Application of the existing standard would result in a diminution of safety to miners. Underground mining by its nature, size, and complexity of mine plans requires that accurate and precise measurements be completed in a prompt and efficient manner.

As an alternative to the existing standard, the petitioner proposes the following:

(a) The operator may use the following total stations and theodolites and similar low-voltage battery-operated total stations and theodolites if they have an ingress protection (IP) rating of 66 or greater within 150 feet of pillar workings or longwall faces subject to the Proposed Decision and Order (PDO):

—TopCon GPT 3005 LW

(b) The nonpermissible electronic surveying equipment to be used is low-voltage or battery-powered nonpermissible total stations and theodolites. All nonpermissible electronic total stations and theodolites will have an IP 66 or greater rating.

(c) The operator will maintain a logbook for electronic surveying equipment with the equipment, or in the location where mine record books are kept, or in the location where the surveying record books are kept. The logbook will contain the date of manufacture and/or purchase of each particular piece of electronic surveying equipment. The logbook will be made available to MSHA on request.

(d) All nonpermissible electronic surveying equipment to be used within 150 feet of pillar workings or longwall faces will be examined by the person who operates the equipment prior to taking the equipment underground to ensure the equipment is being maintained in a safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case;

(ii) Removing the battery and inspecting for corrosion;

(iii) Inspecting the contact points to ensure a secure connection to the battery;

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections; and

(v) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(e) The equipment will be examined at least weekly by a qualified person, as defined in 30 CFR 75.153. The examination results will be recorded weekly in the equipment logbook. Examination entries in the logbook may be expunged after 1 year.

(f) The operator will ensure that all nonpermissible electronic surveying equipment is serviced according to the manufacturer's recommendations. Dates of service will be recorded in the equipment's logbook and will include a description of the work performed.

(g) The nonpermissible electronic surveying equipment used within 150 feet of pillar workings or longwall faces will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the PDO.

(h) Nonpermissible electronic surveying equipment will not be used if methane is detected in concentrations at or above 1.0 percent. When 1.0 percent or more methane is detected while such equipment is being used, the equipment will be de-energized immediately and withdrawn further than 150 feet from pillar workings and longwall faces. All requirements of 30 CFR 75.323 will be complied with prior to entering within 150 feet of pillar workings or longwall faces.

(i) Prior to setting up and energizing nonpermissible electronic surveying equipment within 150 feet of pillar workings or longwall faces, the surveyor(s) will conduct a visual examination of the immediate area for evidence that the area appears to be sufficiently rock-dusted and for the presence of accumulated float coal dust. If the rock-dusting appears insufficient or the presence of accumulated float coal dust is observed, the equipment will not be energized until sufficient rock-dust has been applied and/or the accumulations of float coal dust have been cleaned up. If nonpermissible electronic surveying equipment is to be used in an area not rock-dusted within 40 feet of a working face where a continuous mining machine is used, the area will be rock-dusted prior to energizing the nonpermissible electronic surveying equipment.

(j) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition, as defined in 30 CFR 75.320. All methane detectors will provide visual and audible warnings when methane is detected at or above 1.0 percent.

(k) Prior to energizing nonpermissible electronic surveying equipment within 150 feet of pillar workings and longwall faces, methane tests will be made in accordance with 30 CFR 75.323. Nonpermissible electronic surveying equipment will not be used within 150 feet of pillar workings or longwall faces when production is occurring.

(l) Prior to surveying, the area will be examined according to 30 CFR 75.360. If the area has not been examined, a supplemental examination according to 30 CFR 75.361 will be performed before any non-certified person enters the area.

(m) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic surveying equipment within 150 feet of pillar workings and longwall faces. If there are two people in the surveying crew, both persons will continuously monitor for methane. The other person will either be a qualified person, as defined in 30 CFR 75.151, or be in the process of being trained to be a qualified person but has yet to make such tests for a period of 6 months, as required in 30 CFR 75.150. Upon completion of the 6-month training period, the second person on the surveying crew will become qualified, as defined in 30 CFR 75.151, in order to continue on the surveying crew. If the surveying crew consists of one person, that person will monitor for methane with two separate devices.

(n) Batteries contained in the nonpermissible electronic surveying equipment will be changed out or charged in fresh air more than 150 feet from pillar workings or longwall faces. Replacement batteries will be carried only in the compartment provided for a spare battery in the nonpermissible electronic surveying equipment carrying case. Before each shift of surveying, all batteries for the nonpermissible electronic surveying equipment will be charged sufficiently so that they are not expected to be replaced on that shift.

(o) When using nonpermissible electronic surveying equipment within 150 feet of pillar workings or longwall faces, the surveyor will confirm by measurement or by inquiry of the person in charge of the section, that the air quantity on the section, on that shift, within 150 feet of pillar workings or longwall faces is at least the minimum quantity that is required by the mine's ventilation plan.

(p) Personnel engaged in the use of nonpermissible electronic surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of such

equipment in areas where methane could be present.

(q) All members of the surveying crew will receive specific training on the terms and conditions of the PDO before using nonpermissible electronic surveying equipment within 150 feet of pillar workings or longwall faces. A record of the training will be kept with the other training records.

(r) Within 60 days after the PDO becomes final, the operator will submit proposed revisions for its approved 30 CFR part 48 training plans to the District Manager. These revisions will specify initial and refresher training regarding the terms and conditions of the PDO. When training is conducted on the terms and conditions in the PDO, an MSHA Certificate of Training (Form 5000-23) will be completed and will indicate that it was surveyor training.

(s) The operator will replace or retire from service any electronic surveying instrument that was acquired prior to December 31, 2004 within 1 year of the PDO becoming final. Within 3 years of the date that the PDO becomes final, the operator will replace or retire from service any theodolite that was acquired more than 5 years prior to the date that the PDO become final or any total station or other electronic surveying equipment identified in the PDO acquired more than 10 years prior to the date that the PDO becomes final. After 5 years, the operator will maintain a cycle of purchasing new electronic surveying equipment whereby theodolites will be no older than 5 years from the date of manufacture and total stations and other electronic surveying equipment will be no older than 10 years from the date of manufacture.

(t) The operator will ensure that all surveying contractors hired by the operator are using nonpermissible electronic surveying equipment in accordance with the requirements in the PDO. The conditions of use in the PDO will apply to all nonpermissible electronic surveying equipment used within 150 feet of pillar workings or longwall faces, regardless of whether the equipment is used by the operator or by an independent contractor.

(u) The petitioner states that it may use nonpermissible electronic surveying equipment when production is occurring, subject to the following conditions:

—On a mechanized mining unit (MMU) where production is occurring, nonpermissible electronic surveying equipment will not be used downwind of the discharge point of any face ventilation controls, such as tubing (including controls such as “baloney skins”) or curtains.

- Production may continue while nonpermissible electronic surveying equipment is used, if the surveying equipment is used in a separate split of air from where production is occurring.
- Nonpermissible electronic surveying equipment will not be used in a split of air ventilating an MMU if any ventilation controls will be disrupted during such surveying. Disruption of ventilation controls means any change to the mine's ventilation system that causes the ventilation system not to function in accordance with the mine's approved ventilation plan.
- If, while surveying, a surveyor must disrupt ventilation, the surveyor will cease surveying and communicate to the section foreman that ventilation must be disrupted. Production will stop while ventilation is disrupted. Ventilation controls will be reestablished immediately after the disruption is no longer necessary. Production can only resume after all ventilation controls are reestablished and are in compliance with approved ventilation or other plans, and other applicable laws, standards, or regulations.
- Any disruption in ventilation will be recorded in the logbook required by the PDO. The logbook will include a description of the nature of the disruption, the location of the disruption, the date and time of the disruption and the date and time the surveyor communicated the disruption to the section foreman, the date and time production ceased, the date and time ventilation was reestablished, and the date and time production resumed.
- All surveyors, section foremen, section crew members, and other personnel who will be involved with or affected by surveying operations will receive training in accordance with 30 CFR 48.7 on the requirements of the PDO within 60 days of the date the PDO becomes final. The training will be completed before any nonpermissible electronic surveying equipment can be used while production is occurring. The operator will keep a record of the training and provide the record to MSHA on request.
- The operator will provide annual retraining to all personnel who will be involved with or affected by surveying operations in accordance with 30 CFR 48.8. The operator will train new miners on the requirements of the PDO in accordance with 30 CFR 48.5, and will train experienced miners, as defined in 30 CFR 48.6, on the requirements of the PDO in

accordance with 30 CFR 48.6. The operator will keep a record of the training and provide the record to MSHA on request.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2019–010–C.

Petitioner: Rockwell Mining, LLC, Three Gateway Center, Suite 1500, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Flying Eagle Mine, MSHA I.D. No. 46–09471, located in Wyoming County, West Virginia.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of battery-powered nonpermissible surveying equipment including, but not limited to, portable battery-operated mine transits, and total station surveying equipment, in or inby the last open crosscut.

The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) The operator utilizes the continuous mining method. Accurate surveying is critical to the safety of the miners at the mine.

(3) Mechanical surveying equipment has been obsolete for a number of years. Such equipment of acceptable quality is not commercially available. Further, it is difficult, if not impossible, to have such equipment serviced or repaired.

(4) Electronic surveying equipment is, at a minimum, 8–10 times more accurate than mechanical equipment.

(5) Application of the existing standard would result in a diminution of safety to miners. Underground mining by its nature, size, and complexity of mine plans requires that accurate and precise measurements be completed in a prompt and efficient manner.

As an alternative to the existing standard, the petitioner proposes the following:

(a) The operator may use the following total stations and theodolites and similar low-voltage battery-operated total stations and theodolites if they have an ingress protection (IP) rating of 66 or greater in or inby the last open crosscut, subject to the Proposed Decision and Order (PDO):

—Topcon GPT 3005 LW

(b) The nonpermissible electronic surveying equipment to be used is low-voltage or battery-powered nonpermissible total stations and theodolites. All nonpermissible electronic total stations and theodolites will have an IP 66 or greater rating.

(c) The operator will maintain a logbook for electronic surveying equipment with the equipment, or in the location where mine record books are kept, or in the location where the surveying record books are kept. The logbook will contain the date of manufacture and/or purchase of each particular piece of electronic surveying equipment. The logbook will be made available to MSHA on request.

(d) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined by the person who operates the equipment prior to taking the equipment underground to ensure the equipment is being maintained in a safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case;

(ii) Removing the battery and inspecting for corrosion;

(iii) Inspecting the contact points to ensure a secure connection to the battery;

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections; and

(v) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(e) The equipment will be examined at least weekly by a qualified person as defined in 30 CFR 75.153. The examination results will be recorded weekly in the equipment logbook. Examination entries in the logbook may be expunged after 1 year.

(f) The operator will ensure that all nonpermissible electronic surveying equipment is serviced according to the manufacturer's recommendations. Dates of service will be recorded in the equipment's logbook and will include a description of the work performed.

(g) The nonpermissible electronic surveying equipment used in or inby the last open crosscut will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the PDO.

(h) Nonpermissible electronic surveying equipment will not be used if methane is detected in concentrations at or above 1.0 percent. When 1.0 percent or more methane is detected while such equipment is being used, the equipment will be de-energized immediately and

withdrawn outby the last open crosscut. All requirements of 30 CFR 75.323 will be complied with prior to entering in or inby the last open crosscut.

(i) Prior to setting up and energizing nonpermissible electronic surveying equipment in or inby the last open crosscut, the surveyor(s) will conduct a visual examination of the immediate area for evidence that the area appears to be sufficiently rock-dusted and for the presence of accumulated float coal dust. If the rock-dusting appears insufficient or the presence of accumulated float coal dust is observed, the equipment will not be energized until sufficient rock-dust has been applied and/or the accumulations of float coal dust have been cleaned up. If nonpermissible electronic surveying equipment is to be used in an area not rock-dusted within 40 feet of a working face where a continuous mining machine is used, the area will be rock-dusted prior to energizing the nonpermissible electronic surveying equipment.

(j) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition, as defined in 30 CFR 75.320. All methane detectors will provide visual and audible warnings when methane is detected at or above 1.0 percent.

(k) Prior to energizing nonpermissible electronic surveying equipment in or inby the last open crosscut, methane tests will be made in accordance with 30 CFR 75.323. Nonpermissible electronic surveying equipment will not be used in or inby the last open crosscut when production is occurring.

(l) Prior to surveying, the area will be examined according to 30 CFR 75.360. If the area has not been examined, a supplemental examination according to 30 CFR 75.361 will be performed before any non-certified person enters the area.

(m) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic surveying equipment in or inby the last open crosscut. If there are two people in the surveying crew, both persons will continuously monitor for methane. The other person will either be a qualified person, as defined in 30 CFR 75.151, or be in the process of being trained to be a qualified person but has yet to make such tests for a period of 6 months, as required in 30 CFR 75.150. Upon completion of the 6-month training period, the second person on the surveying crew must become qualified, as defined in 30 CFR 75.151, in order to continue on the surveying crew. If the surveying crew

consists of one person, that person will monitor for methane with two separate devices.

(n) Batteries contained in the nonpermissible electronic surveying equipment will be changed out or charged in intake air outby the last open crosscut. Replacement batteries will be carried only in the compartment provided for a spare battery in the nonpermissible electronic surveying equipment carrying case. Before each shift of surveying, all batteries for the nonpermissible electronic surveying equipment will be charged sufficiently so that they are not expected to be replaced on that shift.

(o) When using nonpermissible electronic surveying equipment in or inby the last open crosscut, the surveyor will confirm by measurement or by inquiry of the person in charge of the section, that the air quantity on the section, on that shift, in the last open crosscut is at least the minimum quantity that is required by the mine's ventilation plan.

(p) Personnel engaged in the use of nonpermissible electronic surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of such equipment in areas where methane could be present.

(q) All members of the surveying crew will receive specific training on the terms and conditions of the PDO before using nonpermissible electronic surveying equipment in or inby the last open crosscut. A record of the training will be kept with the other training records.

(r) Within 60 days after the PDO becomes final, the operator will submit proposed revisions for its approved 30 CFR part 48 training plans to the District Manager. These revisions will specify initial and refresher training regarding the terms and conditions of the PDO. When training is conducted on the terms and conditions in the PDO, an MSHA Certificate of Training (Form 5000-23) will be completed and will indicate that it was surveyor training.

(s) The operator will replace or retire from service any electronic surveying instrument that was acquired prior to December 31, 2004 within 1 year of the PDO becoming final. Within 3 years of the date that the PDO becomes final, the operator will replace or retire from service any theodolite that was acquired more than 5 years prior to the date that the PDO becomes final or any total station or other electronic surveying equipment identified in the PDO acquired more than 10 years prior to the date that the PDO becomes final. After 5 years, the operator will maintain a

cycle of purchasing new electronic surveying equipment whereby theodolites will be no older than 5 years from the date of manufacture and total stations and other electronic surveying equipment will be no older than 10 years from the date of manufacture.

(t) The operator will ensure that all surveying contractors hired by the operator are using nonpermissible electronic surveying equipment in accordance with the requirements in the PDO. The conditions of use in the PDO will apply to all nonpermissible electronic surveying equipment used in or inby the last open crosscut, regardless of whether the equipment is used by the operator or by an independent contractor.

(u) The petitioner states that it may use nonpermissible electronic surveying equipment when production is occurring, subject to the following conditions:

- On a mechanized mining unit (MMU) where production is occurring, nonpermissible electronic surveying equipment will not be used downwind of the discharge point of any face ventilation controls, such as tubing (including controls such as “baloney skins”) or curtains.
- Production may continue while nonpermissible electronic surveying equipment is used, if the surveying equipment is used in a separate split of air from where production is occurring.
- Nonpermissible electronic surveying equipment will not be used in a split of air ventilating an MMU if any ventilation controls will be disrupted during such surveying. Disruption of ventilation controls means any change to the mine's ventilation system that causes the ventilation system not to function in accordance with the mine's approved ventilation plan.
- If, while surveying, a surveyor must disrupt ventilation, the surveyor will cease surveying and communicate to the section foreman that ventilation must be disrupted. Production will stop while ventilation is disrupted. Ventilation controls will be reestablished immediately after the disruption is no longer necessary. Production can only resume after all ventilation controls are reestablished and are in compliance with approved ventilation or other plans, and other applicable laws, standards, or regulations.
- Any disruption in ventilation will be recorded in the logbook required by the PDO. The logbook will include a description of the nature of the disruption, the location of the

disruption, the date and time of the disruption and the date and time the surveyor communicated the disruption to the section foreman, the date and time production ceased, the date and time ventilation was reestablished, and the date and time production resumed.

—All surveyors, section foremen, section crew members, and other personnel who will be involved with or affected by surveying operations will receive training in accordance with 30 CFR 48.7 on the requirements of the PDO within 60 days of the date the PDO becomes final. The training will be completed before any nonpermissible electronic surveying equipment can be used while production is occurring. The operator will keep a record of the training and provide the record to MSHA on request.

—The operator will provide annual retraining to all personnel who will be involved with or affected by surveying operations in accordance with 30 CFR 48.8. The operator will train new miners on the requirements of the PDO in accordance with 30 CFR 48.5, and will train experienced miners, as defined in 30 CFR 48.6, on the requirements of the PDO in accordance with 30 CFR 48.6. The operator will keep a record of the training and provide the record to MSHA on request.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M-2019-011-C.

Petitioner: Rockwell Mining, LLC, Three Gateway Center, Suite 1500, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222-1000.

Mine: Flying Eagle Mine, MSHA I.D. No. 46-09471, located in Wyoming County, West Virginia.

Regulation Affected: 30 CFR 75.507-1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of battery-powered nonpermissible surveying equipment including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers, in return airways.

The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps

in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to miners. Underground mining by its nature, size, and complexity of mine plans requires that accurate and precise measurements be completed in a prompt and efficient manner.

As an alternative to the existing standard, the petitioner proposes the following:

(a) The operator may use the following total stations and theodolites and similar low-voltage battery-operated total stations and theodolites if they have an ingress protection (IP) rating of 66 or greater in return airways, subject to the Proposed Decision and Order (PDO):

—TopCon GPT 3005 LW

(b) The nonpermissible electronic surveying equipment to be used is low-voltage or battery-powered nonpermissible total stations and theodolites. All nonpermissible electronic total stations and theodolites will have an IP 66 or greater rating.

(c) The operator will maintain a logbook for electronic surveying equipment with the equipment, or in the location where mine record books are kept, or in the location where the surveying record books are kept. The logbook will contain the date of manufacture and/or purchase of each particular piece of electronic surveying equipment. The logbook will be made available to MSHA on request.

(d) All nonpermissible electronic surveying equipment to be used in return airways will be examined by the person who operates the equipment prior to taking the equipment underground to ensure the equipment is being maintained in a safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case;

(ii) Removing the battery and inspecting for corrosion;

(iii) Inspecting the contact points to ensure a secure connection to the battery;

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections; and

(v) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(e) The equipment will be examined at least weekly by a qualified person, as defined in 30 CFR 75.153. The examination results will be recorded

weekly in the equipment logbook. Examination entries in the logbook may be expunged after 1 year.

(f) The operator will ensure that all nonpermissible electronic surveying equipment is serviced according to the manufacturer's recommendations. Dates of service will be recorded in the equipment's logbook and will include a description of the work performed.

(g) The nonpermissible electronic surveying equipment used in return airways will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the PDO.

(h) Nonpermissible electronic surveying equipment will not be used if methane is detected in concentrations at or above 1.0 percent. When 1.0 percent or more methane is detected while such equipment is being used, the equipment will be de-energized immediately and withdrawn out of return airways. All requirements of 30 CFR 75.323 will be complied with prior to entering in return airways.

(i) Prior to setting up and energizing nonpermissible electronic surveying equipment in return airways, the surveyor(s) will conduct a visual examination of the immediate area for evidence that the area appears to be sufficiently rock-dusted and for the presence of accumulated float coal dust. If the rock-dusting appears insufficient or the presence of accumulated float coal dust is observed, the equipment will not be energized until sufficient rock-dust has been applied and/or the accumulations of float coal dust have been cleaned up. If nonpermissible electronic surveying equipment is to be used in an area not rock-dusted within 40 feet of a working face where a continuous mining machine is used, the area will be rocked-dusted prior to energizing the nonpermissible electronic surveying equipment.

(j) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition, as defined in 30 CFR 75.320. All methane detectors will provide visual and audible warnings when methane is detected at or above 1.0 percent.

(k) Prior to energizing nonpermissible electronic surveying equipment in return airways, methane tests will be made in accordance with 30 CFR 75.323. Nonpermissible electronic surveying equipment will not be used in return airways when production is occurring.

(l) Prior to surveying, the area will be examined according to 30 CFR 75.360. If the area has not been examined, a

supplemental examination according to 30 CFR 75.361 will be performed before any non-certified person enters the area.

(m) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic surveying equipment in return airways. If there are two people in the surveying crew, both persons will continuously monitor for methane. The other person will either be a qualified person, as defined in 30 CFR 75.151, or be in the process of being trained to be a qualified person but has yet to make such tests for a period of 6 months, as required in 30 CFR 75.150. Upon completion of the 6-month training period, the second person on the surveying crew will become qualified, as defined in 30 CFR 75.151, in order to continue on the surveying crew. If the surveying crew consists of one person, that person will monitor for methane with two separate devices.

(n) Batteries contained in the nonpermissible electronic surveying equipment will be changed out or charged in fresh air out of the return airways. Replacement batteries will be carried only in the compartment provided for a spare battery in the nonpermissible electronic surveying equipment carrying case. Before each shift of surveying, all batteries for the nonpermissible electronic surveying equipment will be charged sufficiently so that they are not expected to be replaced on that shift.

(o) When using nonpermissible electronic surveying equipment in return airways, the surveyor will confirm by measurement or by inquiry of the person in charge of the section, that the air quantity on the section, on that shift, in return airways is at least the minimum quantity that is required by the mine's ventilation plan.

(p) Personnel engaged in the use of nonpermissible electronic surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of such equipment in areas where methane could be present.

(q) All members of the surveying crew will receive specific training on the terms and conditions of the PDO before using nonpermissible electronic surveying equipment in return airways. A record of the training will be kept with the other training records.

(r) Within 60 days after the PDO becomes final, the operator will submit proposed revisions for its approved 30 CFR part 48 training plans to the District Manager. These revisions will specify initial and refresher training regarding the terms and conditions of the PDO.

When training is conducted on the terms and conditions in the PDO, an MSHA Certificate of Training (Form 5000-23) will be completed and will indicate that it was surveyor training.

(s) The operator will replace or retire from service any electronic surveying instrument that was acquired prior to December 31, 2004 within 1 year of the PDO becoming final. Within 3 years of the date that the PDO becomes final, the operator will replace or retire from service any theodolite that was acquired more than 5 years prior to the date that the PDO becomes final or any total station or other electronic surveying equipment identified in the PDO acquired more than 10 years prior to the date that the PDO becomes final. After 5 years, the operator will maintain a cycle of purchasing new electronic surveying equipment whereby theodolites will be no older than 5 years from the date of manufacture and total stations and other electronic surveying equipment will be no older than 10 years from the date of manufacture.

(t) The operator will ensure that all surveying contractors hired by the operator are using nonpermissible electronic surveying equipment in accordance with the requirements in the PDO. The conditions of use in the PDO will apply to all nonpermissible electronic surveying equipment used in return airways, regardless of whether the equipment is used by the operator or by an independent contractor.

(u) The petitioner states that it may use nonpermissible electronic surveying equipment when production is occurring, subject to the following conditions:

—On a mechanized mining unit (MMU) where production is occurring, nonpermissible electronic surveying equipment will not be used downwind of the discharge point of any face ventilation controls, such as tubing (including controls such as “baloney skins”) or curtains.

—Production may continue while nonpermissible electronic surveying equipment is used, if the surveying equipment is used in a separate split of air from where production is occurring.

—Nonpermissible electronic surveying equipment will not be used in a split of air ventilating an MMU if any ventilation controls will be disrupted during such surveying. Disruption of ventilation controls means any change to the mine's ventilation system that causes the ventilation system not to function in accordance with the mine's approved ventilation plan.

—If, while surveying, a surveyor must disrupt ventilation, the surveyor will

cease surveying and communicate to the section foreman that ventilation must be disrupted. Production will stop while ventilation is disrupted. Ventilation controls will be reestablished immediately after the disruption is no longer necessary. Production can only resume after all ventilation controls are reestablished and are in compliance with approved ventilation or other plans, and other applicable laws, standards, or regulations.

—Any disruption in ventilation will be recorded in the logbook required by the PDO. The logbook will include a description of the nature of the disruption, the location of the disruption, the date and time of the disruption and the date and time the surveyor communicated the disruption to the section foreman, the date and time production ceased, the date and time ventilation was reestablished, and the date and time production resumed.

—All surveyors, section foremen, section crew members, and other personnel who will be involved with or affected by surveying operations will receive training in accordance with 30 CFR 48.7 on the requirements of the PDO within 60 days of the date the PDO becomes final. The training will be completed before any nonpermissible electronic surveying equipment can be used while production is occurring. The operator will keep a record of the training and provide the record to MSHA on request.

—The operator will provide annual retraining to all personnel who will be involved with or affected by surveying operations in accordance with 30 CFR 48.8. The operator will train new miners on the requirements of the PDO in accordance with 30 CFR 48.5, and will train experienced miners, as defined in 30 CFR 48.6, on the requirements of the PDO in accordance with 30 CFR 48.6. The operator will keep a record of the training and provide the record to MSHA on request.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M-2019-012-C.

Petitioner: Rockwell Mining, LLC, Three Gateway Center, Suite 1500, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222-1000.

Mines: Flying Eagle Mine, MSHA I.D. No. 46-09471, located in Wyoming County, West Virginia.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of battery-powered nonpermissible surveying equipment, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers, within 150 feet of pillar workings and longwall faces.

The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary. In order to ensure the safety of the miners in active mines and to protect miners in future mines which may mine in close proximity to these same active mines, it is necessary to determine the exact location and extents of the mine workings.

(2) Application of the existing standard would result in a diminution of safety to miners. Underground mining by its nature, size, and complexity of mine plans requires that accurate and precise measurements be completed in a prompt and efficient manner.

As an alternative to the existing standard, the petitioner proposes the following:

(a) The operator may use the following total stations and theodolites and similar low-voltage battery-operated total stations and theodolites if they have an ingress protection (IP) rating of 66 or greater within 150 feet of pillar workings or longwall faces subject to the Proposed Decision and Order (PDO):

—TopCon GPT 3005 LW

(b) The nonpermissible electronic surveying equipment to be used is low-voltage or battery-powered nonpermissible total stations and theodolites. All nonpermissible electronic total stations and theodolites will have an IP 66 or greater rating.

(c) The operator will maintain a logbook for electronic surveying equipment with the equipment, or in the location where mine record books are kept, or in the location where the surveying record books are kept. The logbook will contain the date of manufacture and/or purchase of each particular piece of electronic surveying equipment. The logbook will be made available to MSHA on request.

(d) All nonpermissible electronic surveying equipment to be used within

150 feet of pillar workings or longwall faces will be examined by the person who operates the equipment prior to taking the equipment underground to ensure the equipment is being maintained in a safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case;

(ii) Removing the battery and inspecting for corrosion;

(iii) Inspecting the contact points to ensure a secure connection to the battery;

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections; and

(v) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(e) The equipment will be examined at least weekly by a qualified person, as defined in 30 CFR 75.153. The examination results will be recorded weekly in the equipment logbook. Examination entries in the logbook may be expunged after 1 year.

(f) The operator will ensure that all nonpermissible electronic surveying equipment is serviced according to the manufacturer's recommendations. Dates of service will be recorded in the equipment's logbook and will include a description of the work performed.

(g) The nonpermissible electronic surveying equipment used within 150 feet of pillar workings or longwall faces will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the PDO.

(h) Nonpermissible electronic surveying equipment will not be used if methane is detected in concentrations at or above 1.0 percent. When 1.0 percent or more methane is detected while such equipment is being used, the equipment will be de-energized immediately and withdrawn further than 150 feet from pillar workings and longwall faces. All requirements of 30 CFR 75.323 will be complied with prior to entering within 150 feet of pillar workings or longwall faces.

(i) Prior to setting up and energizing nonpermissible electronic surveying equipment within 150 feet of pillar workings or longwall faces, the surveyor(s) will conduct a visual examination of the immediate area for evidence that the area appears to be sufficiently rock-dusted and for the presence of accumulated float coal dust. If the rock-dusting appears insufficient or the presence of accumulated float coal dust is observed, the equipment

will not be energized until sufficient rock-dust has been applied and/or the accumulations of float coal dust have been cleaned up. If nonpermissible electronic surveying equipment is to be used in an area not rock-dusted within 40 feet of a working face where a continuous mining machine is used, the area will be rock-dusted prior to energizing the nonpermissible electronic surveying equipment.

(j) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition, as defined in 30 CFR 75.320. All methane detectors will provide visual and audible warnings when methane is detected at or above 1.0 percent.

(k) Prior to energizing nonpermissible electronic surveying equipment within 150 feet of pillar workings and longwall faces, methane tests will be made in accordance with 30 CFR 75.323. Nonpermissible electronic surveying equipment will not be within 150 feet of pillar workings or longwall faces when production is occurring.

(l) Prior to surveying, the area will be examined according to 30 CFR 75.360. If the area has not been examined, a supplemental examination according to 30 CFR 75.361 will be performed before any non-certified person enters the area.

(m) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic surveying equipment within 150 feet of pillar workings and longwall faces. If there are two people in the surveying crew, both persons will continuously monitor for methane. The other person will either be a qualified person, as defined in 30 CFR 75.151, or be in the process of being trained to be a qualified person but has yet to make such tests for a period of 6 months, as required in 30 CFR 75.150. Upon completion of the 6-month training period, the second person on the surveying crew will become qualified, as defined in 30 CFR 75.151, in order to continue on the surveying crew. If the surveying crew consists of one person, that person will monitor for methane with two separate devices.

(n) Batteries contained in the nonpermissible electronic surveying equipment will be changed out or charged in fresh air more than 150 feet from pillar workings or longwall faces. Replacement batteries will be carried only in the compartment provided for a spare battery in the nonpermissible electronic surveying equipment carrying case. Before each shift of surveying, all batteries for the nonpermissible electronic surveying equipment will be

charged sufficiently so that they are not expected to be replaced on that shift.

(o) When using nonpermissible electronic surveying equipment within 150 feet of pillar workings or longwall faces, the surveyor will confirm by measurement or by inquiry of the person in charge of the section, that the air quantity on the section, on that shift, within 150 feet of pillar workings or longwall faces is at least the minimum quantity that is required by the mine's ventilation plan.

(p) Personnel engaged in the use of nonpermissible electronic surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of such equipment in areas where methane could be present.

(q) All members of the surveying crew will receive specific training on the terms and conditions of the PDO before using nonpermissible electronic surveying equipment within 150 feet of pillar workings or longwall faces. A record of the training will be kept with the other training records.

(r) Within 60 days after the PDO becomes final, the operator will submit proposed revisions for its approved 30 CFR part 48 training plans to the District Manager. These revisions will specify initial and refresher training regarding the terms and conditions of the PDO. When training is conducted on the terms and conditions in the PDO, an MSHA Certificate of Training (Form 5000-23) will be completed and will indicate that it was surveyor training.

(s) The operator will replace or retire from service any electronic surveying instrument that was acquired prior to December 31, 2004 within 1 year of the PDO becoming final. Within 3 years of the date that the PDO becomes final, the operator will replace or retire from service any theodolite that was acquired more than 5 years prior to the date that the PDO becomes final or any total station or other electronic surveying equipment identified in the PDO acquired more than 10 years prior to the date that the PDO becomes final. After 5 years, the operator will maintain a cycle of purchasing new electronic surveying equipment whereby theodolites will be no older than 5 years from the date of manufacture and total stations and other electronic surveying equipment will be no older than 10 years from the date of manufacture.

(t) The operator will ensure that all surveying contractors hired by the operator are using nonpermissible electronic surveying equipment in accordance with the requirements in the PDO. The conditions of use in the PDO will apply to all nonpermissible

electronic surveying equipment used within 150 feet of pillar workings or longwall faces, regardless of whether the equipment is used by the operator or by an independent contractor.

(u) The petitioner states that it may use nonpermissible electronic surveying equipment when production is occurring, subject to the following conditions:

—On a mechanized mining unit (MMU) where production is occurring, nonpermissible electronic surveying equipment will not be used downwind of the discharge point of any face ventilation controls, such as tubing (including controls such as “baloney skins”) or curtains.

—Production may continue while nonpermissible electronic surveying equipment is used, if the surveying equipment is used in a separate split of air from where production is occurring.

—Nonpermissible electronic surveying equipment will not be used in a split of air ventilating an MMU if any ventilation controls will be disrupted during such surveying. Disruption of ventilation controls means any change to the mine's ventilation system that causes the ventilation system not to function in accordance with the mine's approved ventilation plan.

—If, while surveying, a surveyor must disrupt ventilation, the surveyor will cease surveying and communicate to the section foreman that ventilation must be disrupted. Production will stop while ventilation is disrupted. Ventilation controls will be reestablished immediately after the disruption is no longer necessary. Production can only resume after all ventilation controls are reestablished and are in compliance with approved ventilation or other plans, and other applicable laws, standards, or regulations.

—Any disruption in ventilation will be recorded in the logbook required by the PDO. The logbook will include a description of the nature of the disruption, the location of the disruption, the date and time of the disruption and the date and time the surveyor communicated the disruption to the section foreman, the date and time production ceased, the date and time ventilation was reestablished, and the date and time production resumed.

—All surveyors, section foremen, section crew members, and other personnel who will be involved with or affected by surveying operations will receive training in accordance with 30 CFR 48.7 on the requirements

of the PDO within 60 days of the date the PDO becomes final. The training will be completed before any nonpermissible electronic surveying equipment can be used while production is occurring. The operator will keep a record of the training and provide the record to MSHA on request.

—The operator will provide annual retraining to all personnel who will be involved with or affected by surveying operations in accordance with 30 CFR 48.8. The operator will train new miners on the requirements of the PDO in accordance with 30 CFR 48.5, and will train experienced miners, as defined in 30 CFR 48.6, on the requirements of the PDO in accordance with 30 CFR 48.6. The operator will keep a record of the training and provide the record to MSHA on request.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M-2019-013-C.

Petitioner: Rockwell Mining, LLC, Three Gateway Center, Suite 1500, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222-1000.

Mine: Glancy Chilton Mine, MSHA I.D. No. 46-09554, located in Wyoming County, West Virginia.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of battery-powered nonpermissible surveying equipment including, but not limited to, portable battery-operated mine transits, and total station surveying equipment, in or in by the last open crosscut.

The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) The operator utilizes the continuous mining method. Accurate surveying is critical to the safety of the miners at the mine.

(3) Mechanical surveying equipment has been obsolete for a number of years. Such equipment of acceptable quality is not commercially available. Further, it is difficult, if not impossible, to have such equipment serviced or repaired.

(4) Electronic surveying equipment is, at a minimum, 8-10 times more accurate than mechanical equipment.

(5) Application of the existing standard would result in a diminution

of safety to miners. Underground mining by its nature, size, and complexity of mine plans requires that accurate and precise measurements be completed in a prompt and efficient manner.

As an alternative to the existing standard, the petitioner proposes the following:

(a) The operator may use the following total stations and theodolites and similar low-voltage battery-operated total stations and theodolites if they have an ingress protection (IP) rating of 66 or greater in or inby the last open crosscut subject to the Proposed Decision and Order (PDO):

—TopCon GPT 3005 LW

(b) The nonpermissible electronic surveying equipment to be used is low-voltage or battery-powered nonpermissible total stations and theodolites. All nonpermissible electronic total stations and theodolites will have an IP 66 or greater rating.

(c) The operator will maintain a logbook for electronic surveying equipment with the equipment, or in the location where mine record books are kept, or in the location where the surveying record books are kept. The logbook will contain the date of manufacture and/or purchase of each particular piece of electronic surveying equipment. The logbook will be made available to MSHA on request.

(d) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined by the person who operates the equipment prior to taking the equipment underground to ensure the equipment is being maintained in a safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case;

(ii) Removing the battery and inspecting for corrosion;

(iii) Inspecting the contact points to ensure a secure connection to the battery;

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections; and

(v) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(e) The equipment will be examined at least weekly by a qualified person, as defined in 30 CFR 75.153. The examination results will be recorded weekly in the equipment logbook. Examination entries in the logbook may be expunged after 1 year.

(f) The operator will ensure that all nonpermissible electronic surveying

equipment is serviced according to the manufacturer's recommendations. Dates of service will be recorded in the equipment's logbook and will include a description of the work performed.

(g) The nonpermissible electronic surveying equipment used in or inby the last open crosscut will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the PDO.

(h) Nonpermissible electronic surveying equipment will not be used if methane is detected in concentrations at or above 1.0 percent. When 1.0 percent or more methane is detected while such equipment is being used, the equipment will be de-energized immediately and withdrawn outby the last open crosscut. All requirements of 30 CFR 75.323 will be complied with prior to entering in or inby the last open crosscut.

(i) Prior to setting up and energizing nonpermissible electronic surveying equipment in or inby the last open crosscut, the surveyor(s) will conduct a visual examination of the immediate area for evidence that the area appears to be sufficiently rock-dusted and for the presence of accumulated float coal dust. If the rock-dusting appears insufficient or the presence of accumulated float coal dust is observed, the equipment will not be energized until sufficient rock-dust has been applied and/or the accumulations of float coal dust have been cleaned up. If nonpermissible electronic surveying equipment is to be used in an area not rock-dusted within 40 feet of a working face where a continuous mining machine is used, the area will be rock-dusted prior to energizing the nonpermissible electronic surveying equipment.

(j) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition, as defined in 30 CFR 75.320. All methane detectors will provide visual and audible warnings when methane is detected at or above 1.0 percent.

(k) Prior to energizing nonpermissible electronic surveying equipment in or inby the last open crosscut, methane tests will be made in accordance with 30 CFR 75.323. Nonpermissible electronic surveying equipment will not be used in or inby the last open crosscut when production is occurring.

(l) Prior to surveying, the area will be examined, according to 30 CFR 75.360. If the area has not been examined, a supplemental examination according to 30 CFR 75.361 will be performed before any non-certified person enters the area.

(m) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic surveying equipment in or inby the last open crosscut. If there are two people in the surveying crew, both persons will continuously monitor for methane. The other person will either be a qualified person, as defined in 30 CFR 75.151, or be in the process of being trained to be a qualified person but has yet to make such tests for a period of 6 months, as required in 30 CFR 75.150. Upon completion of the 6-month training period, the second person on the surveying crew will become qualified, as defined in 30 CFR 75.151, in order to continue on the surveying crew. If the surveying crew consists of one person, that person will monitor for methane with two separate devices.

(n) Batteries contained in the nonpermissible electronic surveying equipment will be changed out or charged in intake air outby the last open crosscut. Replacement batteries will be carried only in the compartment provided for a spare battery in the nonpermissible electronic surveying equipment carrying case. Before each shift of surveying, all batteries for the nonpermissible electronic surveying equipment will be charged sufficiently so that they are not expected to be replaced on that shift.

(o) When using nonpermissible electronic surveying equipment in or inby the last open crosscut, the surveyor will confirm by measurement or by inquiry of the person in charge of the section, that the air quantity on the section, on that shift, in the last open crosscut is at least the minimum quantity that is required by the mine's ventilation plan.

(p) Personnel engaged in the use of nonpermissible electronic surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of such equipment in areas where methane could be present.

(q) All members of the surveying crew will receive specific training on the terms and conditions of the PDO before using nonpermissible electronic surveying equipment in or inby the last open crosscut. A record of the training will be kept with the other training records.

(r) Within 60 days after the PDO becomes final, the operator will submit proposed revisions for its approved 30 CFR part 48 training plans to the District Manager. These revisions will specify initial and refresher training regarding the terms and conditions of the PDO.

When training is conducted on the terms and conditions in the PDO, an MSHA Certificate of Training (Form 5000–23) will be completed and will indicate that it was surveyor training.

(s) The operator will replace or retire from service any electronic surveying instrument that was acquired prior to December 31, 2004 within 1 year of the PDO becoming final. Within 3 years of the date that the PDO becomes final, the operator will replace or retire from service any theodolite that was acquired more than 5 years prior to the date that the PDO becomes final or any total station or other electronic surveying equipment identified in the PDO acquired more than 10 years prior to the date that the PDO becomes final. After 5 years, the operator will maintain a cycle of purchasing new electronic surveying equipment whereby theodolites will be no older than 5 years from the date of manufacture and total stations and other electronic surveying equipment will be no older than 10 years from the date of manufacture.

(t) The operator will ensure that all surveying contractors hired by the operator are using nonpermissible electronic surveying equipment in accordance with the requirements in the PDO. The conditions of use in the PDO will apply to all nonpermissible electronic surveying equipment used in or in by the last open crosscut, regardless of whether the equipment is used by the operator or by an independent contractor.

(u) The petitioner states that it may use nonpermissible electronic surveying equipment when production is occurring, subject to the following conditions:

- On a mechanized mining unit (MMU) where production is occurring, nonpermissible electronic surveying equipment will not be used downwind of the discharge point of any face ventilation controls, such as tubing (including controls such as “baloney skins”) or curtains.
- Production may continue while nonpermissible electronic surveying equipment is used, if the surveying equipment is used in a separate split of air from where production is occurring.
- Nonpermissible electronic surveying equipment will not be used in a split of air ventilating an MMU if any ventilation controls will be disrupted during such surveying. Disruption of ventilation controls means any change to the mine’s ventilation system that causes the ventilation system not to function in accordance with the mine’s approved ventilation plan.

—If, while surveying, a surveyor must disrupt ventilation, the surveyor will cease surveying and communicate to the section foreman that ventilation must be disrupted. Production will stop while ventilation is disrupted. Ventilation controls will be reestablished immediately after the disruption is no longer necessary. Production can only resume after all ventilation controls are reestablished and are in compliance with approved ventilation or other plans, and other applicable laws, standards, or regulations.

—Any disruption in ventilation will be recorded in the logbook required by the PDO. The logbook will include a description of the nature of the disruption, the location of the disruption, the date and time of the disruption and the date and time the surveyor communicated the disruption to the section foreman, the date and time production ceased, the date and time ventilation was reestablished, and the date and time production resumed.

—All surveyors, section foremen, section crew members, and other personnel who will be involved with or affected by surveying operations will receive training in accordance with 30 CFR 48.7 on the requirements of the PDO within 60 days of the date the PDO becomes final. The training will be completed before any nonpermissible electronic surveying equipment can be used while production is occurring. The operator will keep a record of the training and provide the record to MSHA on request.

—The operator will provide annual retraining to all personnel who will be involved with or affected by surveying operations in accordance with 30 CFR 48.8. The operator will train new miners on the requirements of the PDO in accordance with 30 CFR 48.5, and will train experienced miners, as defined in 30 CFR 48.6, on the requirements of the PDO in accordance with 30 CFR 48.6. The operator will keep a record of the training and provide the record to MSHA on request.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2019–014–C.

Petitioner: Rockwell Mining, LLC, Three Gateway Center, Suite 1500, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Glancy Chilton Mine, MSHA I.D. No. 46–09554, located in Wyoming County, West Virginia.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of battery-powered nonpermissible surveying equipment including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers, in return airways.

The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to miners. Underground mining by its nature, size, and complexity of mine plans requires that accurate and precise measurements be completed in a prompt and efficient manner.

As an alternative to the existing standard, the petitioner proposes the following:

(a) The operator may use the following total stations and theodolites and similar low-voltage battery-operated total stations and theodolites if they have an ingress protection (IP) rating of 66 or greater in return airways, subject to the Proposed Decision and Order (PDO):

—TopCon GPT 3005 LW

(b) The nonpermissible electronic surveying equipment to be used is low-voltage or battery-powered nonpermissible total stations and theodolites. All nonpermissible electronic total stations and theodolites will have an IP 66 or greater rating.

(c) The operator will maintain a logbook for electronic surveying equipment with the equipment, or in the location where mine record books are kept, or in the location where the surveying record books are kept. The logbook will contain the date of manufacture and/or purchase of each particular piece of electronic surveying equipment. The logbook will be made available to MSHA on request.

(d) All nonpermissible electronic surveying equipment to be used in return airways will be examined by the person who operates the equipment prior to taking the equipment underground to ensure the equipment is

being maintained in a safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case;

(ii) Removing the battery and inspecting for corrosion;

(iii) Inspecting the contact points to ensure a secure connection to the battery;

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections; and

(v) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(e) The equipment will be examined at least weekly by a qualified person, as defined in 30 CFR 75.153. The examination results will be recorded weekly in the equipment logbook.

Examination entries in the logbook may be expunged after 1 year.

(f) The operator will ensure that all nonpermissible electronic surveying equipment is serviced according to the manufacturer's recommendations. Dates of service will be recorded in the equipment's logbook and will include a description of the work performed.

(g) The nonpermissible electronic surveying equipment used in return airways will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the PDO.

(h) Nonpermissible electronic surveying equipment will not be used if methane is detected in concentrations at or above 1.0 percent. When 1.0 percent or more methane is detected while such equipment is being used, the equipment will be de-energized immediately and withdrawn out of return airways. All requirements of 30 CFR 75.323 will be complied with prior to entering in return airways.

(i) Prior to setting up and energizing nonpermissible electronic surveying equipment in return airways, the surveyor(s) will conduct a visual examination of the immediate area for evidence that the area appears to be sufficiently rock-dusted and for the presence of accumulated float coal dust. If the rock-dusting appears insufficient or the presence of accumulated float coal dust is observed, the equipment will not be energized until sufficient rock-dust has been applied and/or the accumulations of float coal dust have been cleaned up. If nonpermissible electronic surveying equipment is to be used in an area not rock-dusted within 40 feet of a working face where a continuous mining machine is used, the area will be rock-dusted prior to

energizing the nonpermissible electronic surveying equipment.

(j) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition, as defined in 30 CFR 75.320. All methane detectors will provide visual and audible warnings when methane is detected at or above 1.0 percent.

(k) Prior to energizing nonpermissible electronic surveying equipment in return airways, methane tests will be made in accordance with 30 CFR 75.323. Nonpermissible electronic surveying equipment will not be used in return airways when production is occurring.

(l) Prior to surveying, the area will be examined according to 30 CFR 75.360. If the area has not been examined, a supplemental examination according to 30 CFR 75.361 will be performed before any non-certified person enters the area.

(m) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic surveying equipment in return airways. If there are two people in the surveying crew, both persons will continuously monitor for methane. The other person will either be a qualified person, as defined in 30 CFR 75.151, or be in the process of being trained to be a qualified person but has yet to make such tests for a period of 6 months, as required in 30 CFR 75.150. Upon completion of the 6-month training period, the second person on the surveying crew will become qualified, as defined in 30 CFR 75.151, in order to continue on the surveying crew. If the surveying crew consists of one person, that person will monitor for methane with two separate devices.

(n) Batteries contained in the nonpermissible electronic surveying equipment will be changed out or charged in fresh air out of the return airways. Replacement batteries will be carried only in the compartment provided for a spare battery in the nonpermissible electronic surveying equipment carrying case. Before each shift of surveying, all batteries for the nonpermissible electronic surveying equipment will be charged sufficiently so that they are not expected to be replaced on that shift.

(o) When using nonpermissible electronic surveying equipment in return airways, the surveyor will confirm by measurement or by inquiry of the person in charge of the section, that the air quantity on the section, on that shift, in return airways is at least the minimum quantity that is required by the mine's ventilation plan.

(p) Personnel engaged in the use of nonpermissible electronic surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of such equipment in areas where methane could be present.

(q) All members of the surveying crew will receive specific training on the terms and conditions of the PDO before using nonpermissible electronic surveying equipment in return airways. A record of the training will be kept with the other training records.

(r) Within 60 days after the PDO becomes final, the operator will submit proposed revisions for its approved 30 CFR part 48 training plans to the District Manager. These revisions will specify initial and refresher training regarding the terms and conditions of the PDO. When training is conducted on the terms and conditions in the PDO, an MSHA Certificate of Training (Form 5000-23) will be completed and will indicate that it was surveyor training.

(s) The operator will replace or retire from service any electronic surveying instrument that was acquired prior to December 31, 2004 within 1 year of the PDO becoming final. Within 3 years of the date that the PDO becomes final, the operator will replace or retire from service any theodolite that was acquired more than 5 years prior to the date that the PDO becomes final or any total station or other electronic surveying equipment identified in the PDO acquired more than 10 years prior to the date that the PDO becomes final. After 5 years, the operator will maintain a cycle of purchasing new electronic surveying equipment whereby theodolites will be no older than 5 years from the date of manufacture and total stations and other electronic surveying equipment will be no older than 10 years from the date of manufacture.

(t) The operator will ensure that all surveying contractors hired by the operator are using nonpermissible electronic surveying equipment in accordance with the requirements in the PDO. The conditions of use in the PDO will apply to all nonpermissible electronic surveying equipment used in return airways, regardless of whether the equipment is used by the operator or by an independent contractor.

(u) The petitioner states that it may use nonpermissible electronic surveying equipment when production is occurring, subject to the following conditions:

—On a mechanized mining unit (MMU) where production is occurring, nonpermissible electronic surveying equipment will not be used

- downwind of the discharge point of any face ventilation controls, such as tubing (including controls such as "baloney skins") or curtains.
- Production may continue while nonpermissible electronic surveying equipment is used, if the surveying equipment is used in a separate split of air from where production is occurring.
 - Nonpermissible electronic surveying equipment will not be used in a split of air ventilating an MMU if any ventilation controls will be disrupted during such surveying. Disruption of ventilation controls means any change to the mine's ventilation system that causes the ventilation system not to function in accordance with the mine's approved ventilation plan.
 - If, while surveying, a surveyor must disrupt ventilation, the surveyor will cease surveying and communicate to the section foreman that ventilation must be disrupted. Production will stop while ventilation is disrupted. Ventilation controls will be reestablished immediately after the disruption is no longer necessary. Production can only resume after all ventilation controls are reestablished and are in compliance with approved ventilation or other plans, and other applicable laws, standards, or regulations.
 - Any disruption in ventilation will be recorded in the logbook required by the PDO. The logbook will include a description of the nature of the disruption, the location of the disruption, the date and time of the disruption and the date and time the surveyor communicated the disruption to the section foreman, the date and time production ceased, the date and time ventilation was reestablished, and the date and time production resumed.
 - All surveyors, section foremen, section crew members, and other personnel who will be involved with or affected by surveying operations will receive training in accordance with 30 CFR 48.7 on the requirements of the PDO within 60 days of the date the PDO becomes final. The training will be completed before any nonpermissible electronic surveying equipment can be used while production is occurring. The operator will keep a record of the training and provide the record to MSHA on request.
 - The operator will provide annual retraining to all personnel who will be involved with or affected by surveying operations in accordance with 30 CFR 48.8. The operator will train new miners on the requirements

of the PDO in accordance with 30 CFR 48.5, and will train experienced miners, as defined in 30 CFR 48.6, on the requirements of the PDO in accordance with 30 CFR 48.6. The operator will keep a record of the training and provide the record to MSHA on request.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2019–015–C.

Petitioner: Rockwell Mining, LLC, Three Gateway Center, Suite 1500, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mines: Glancy Chilton Mine, MSHA I.D. No. 46–09554, located in Wyoming County, West Virginia.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of battery-powered nonpermissible surveying equipment including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers, within 150 feet of pillar workings and longwall faces.

The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary. In order to ensure the safety of the miners in active mines and to protect miners in future mines which may mine in close proximity to these same active mines, it is necessary to determine the exact location and extents of the mine workings.

(2) Application of the existing standard would result in a diminution of safety to miners. Underground mining by its nature, size, and complexity of mine plans requires that accurate and precise measurements be completed in a prompt and efficient manner.

As an alternative to the existing standard, the petitioner proposes the following:

(a) The operator may use the following total stations and theodolites and similar low-voltage battery-operated total stations and theodolites if they have an ingress protection (IP) rating of 66 or greater within 150 feet of pillar workings or longwall faces subject to the Proposed Decision and Order (PDO):

—TopCon GPT 3005 LW

(b) The nonpermissible electronic surveying equipment to be used is low-voltage or battery-powered nonpermissible total stations and theodolites. All nonpermissible electronic total stations and theodolites will have an IP 66 or greater rating.

(c) The operator will maintain a logbook for electronic surveying equipment with the equipment, or in the location where mine record books are kept, or in the location where the surveying record books are kept. The logbook will contain the date of manufacture and/or purchase of each particular piece of electronic surveying equipment. The logbook will be made available to MSHA on request.

(d) All nonpermissible electronic surveying equipment to be used within 150 feet of pillar workings and longwall faces will be examined by the person who operates the equipment prior to taking the equipment underground to ensure the equipment is being maintained in a safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case;

(ii) Removing the battery and inspecting for corrosion;

(iii) Inspecting the contact points to ensure a secure connection to the battery;

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections; and

(v) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(e) The equipment will be examined at least weekly by a qualified person, as defined in 30 CFR 75.153. The examination results will be recorded weekly in the equipment logbook. Examination entries in the logbook may be expunged after 1 year.

(f) The operator will ensure that all nonpermissible electronic surveying equipment is serviced according to the manufacturer's recommendations. Dates of service will be recorded in the equipment's logbook and will include a description of the work performed.

(g) The nonpermissible electronic surveying equipment used within 150 feet of pillar workings and longwall faces will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the PDO.

(h) Nonpermissible electronic surveying equipment will not be used if methane is detected in concentrations at

or above 1.0 percent. When 1.0 percent or more methane is detected while such equipment is being used, the equipment will be de-energized immediately and withdrawn further than 150 feet from pillar workings and longwall faces. All requirements of 30 CFR 75.323 will be complied with prior to entering within 150 feet of pillar workings and longwall faces.

(i) Prior to setting up and energizing nonpermissible electronic surveying equipment within 150 feet of pillar workings or longwall faces, the surveyor(s) will conduct a visual examination of the immediate area for evidence that the area appears to be sufficiently rock-dusted and for the presence of accumulated float coal dust. If the rock-dusting appears insufficient or the presence of accumulated float coal dust is observed, the equipment will not be energized until sufficient rock-dust has been applied and/or the accumulations of float coal dust have been cleaned up. If nonpermissible electronic surveying equipment is to be used in an area not rock-dusted within 40 feet of a working face where a continuous mining machine is used, the area will be rock-dusted prior to energizing the nonpermissible electronic surveying equipment.

(j) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition, as defined in 30 CFR 75.320. All methane detectors will provide visual and audible warnings when methane is detected at or above 1.0 percent.

(k) Prior to energizing nonpermissible electronic surveying equipment within 150 feet of pillar workings and longwall faces, methane tests will be made in accordance with 30 CFR 75.323. Nonpermissible electronic surveying equipment will not be used within 150 feet of pillar workings and longwall faces when production is occurring.

(l) Prior to surveying, the area will be examined according to 30 CFR 75.360. If the area has not been examined, a supplemental examination according to 30 CFR 75.361 will be performed before any non-certified person enters the area.

(m) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic surveying equipment within 150 feet of pillar workings and longwall faces. If there are two people in the surveying crew, both persons will continuously monitor for methane. The other person will either be a qualified person, as defined in 30 CFR 75.151, or be in the process of being trained to be a qualified person but has yet to make

such tests for a period of 6 months, as required in 30 CFR 75.150. Upon completion of the 6-month training period, the second person on the surveying crew will become qualified, as defined in 30 CFR 75.151, in order to continue on the surveying crew. If the surveying crew consists of one person, that person will monitor for methane with two separate devices.

(n) Batteries contained in the nonpermissible electronic surveying equipment will be changed out or charged in fresh air more than 150 feet from pillar workings or longwall faces. Replacement batteries will be carried only in the compartment provided for a spare battery in the nonpermissible electronic surveying equipment carrying case. Before each shift of surveying, all batteries for the nonpermissible electronic surveying equipment will be charged sufficiently so that they are not expected to be replaced on that shift.

(o) When using nonpermissible electronic surveying equipment within 150 feet of pillar workings or longwall faces, the surveyor will confirm by measurement or by inquiry of the person in charge of the section, that the air quantity on the section, on that shift, within 150 feet of pillar workings or longwall faces is at least the minimum quantity that is required by the mine's ventilation plan.

(p) Personnel engaged in the use of nonpermissible electronic surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of such equipment in areas where methane could be present.

(q) All members of the surveying crew will receive specific training on the terms and conditions of the PDO before using nonpermissible electronic surveying equipment within 150 feet of pillar workings or longwall faces. A record of the training will be kept with the other training records.

(r) Within 60 days after the PDO becomes final, the operator will submit proposed revisions for its approved 30 CFR part 48 training plans to the District Manager. These revisions will specify initial and refresher training regarding the terms and conditions of the PDO. When training is conducted on the terms and conditions in the PDO, an MSHA Certificate of Training (Form 5000-23) will be completed and will indicate that it was surveyor training.

(s) The operator will replace or retire from service any electronic surveying instrument that was acquired prior to December 31, 2004 within 1 year of the PDO becoming final. Within 3 years of the date that the PDO becomes final, the operator will replace or retire from

service any theodolite that was acquired more than 5 years prior to the date that the PDO becomes final or any total station or other electronic surveying equipment identified in the PDO acquired more than 10 years prior to the date that the PDO becomes final. After 5 years, the operator will maintain a cycle of purchasing new electronic surveying equipment whereby theodolites will be no older than 5 years from the date of manufacture and total stations and other electronic surveying equipment will be no older than 10 years from the date of manufacture.

(t) The operator will ensure that all surveying contractors hired by the operator are using nonpermissible electronic surveying equipment in accordance with the requirements in the PDO. The conditions of use in the PDO will apply to all nonpermissible electronic surveying equipment used within 150 feet of pillar workings or longwall faces, regardless of whether the equipment is used by the operator or by an independent contractor.

(u) The petitioner states that it may use nonpermissible electronic surveying equipment when production is occurring, subject to the following conditions:

- On a mechanized mining unit (MMU) where production is occurring, nonpermissible electronic surveying equipment will not be used downwind of the discharge point of any face ventilation controls, such as tubing (including controls such as “baloney skins”) or curtains.
- Production may continue while nonpermissible electronic surveying equipment is used, if the surveying equipment is used in a separate split of air from where production is occurring.
- Nonpermissible electronic surveying equipment will not be used in a split of air ventilating an MMU if any ventilation controls will be disrupted during such surveying. Disruption of ventilation controls means any change to the mine's ventilation system that causes the ventilation system not to function in accordance with the mine's approved ventilation plan.
- If, while surveying, a surveyor must disrupt ventilation, the surveyor will cease surveying and communicate to the section foreman that ventilation must be disrupted. Production will stop while ventilation is disrupted. Ventilation controls will be reestablished immediately after the disruption is no longer necessary. Production can only resume after all ventilation controls are reestablished and are in compliance with approved

ventilation or other plans, and other applicable laws, standards, or regulations.

- Any disruption in ventilation will be recorded in the logbook required by the PDO. The logbook will include a description of the nature of the disruption, the location of the disruption, the date and time of the disruption and the date and time the surveyor communicated the disruption to the section foreman, the date and time production ceased, the date and time ventilation was reestablished, and the date and time production resumed.
- All surveyors, section foremen, section crew members, and other personnel who will be involved with or affected by surveying operations will receive training in accordance with 30 CFR 48.7 on the requirements of the PDO within 60 days of the date the PDO becomes final. The training will be completed before any nonpermissible electronic surveying equipment can be used while production is occurring. The operator will keep a record of the training and provide the record to MSHA on request.
- The operator will provide annual retraining to all personnel who will be involved with or affected by surveying operations in accordance with 30 CFR 48.8. The operator will train new miners on the requirements of the PDO in accordance with 30 CFR 48.5, and will train experienced miners, as defined in 30 CFR 48.6, on the requirements of the PDO in accordance with 30 CFR 48.6. The operator will keep a record of the training and provide the record to MSHA on request.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Sheila McConnell,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2019-12690 Filed 6-14-19; 8:45 am]

BILLING CODE 4520-43-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2018-0012]

Advisory Committee on Construction Safety and Health (ACCSH): Notice of Membership and Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of ACCSH membership and meeting.

SUMMARY: On May 13, 2019, the Secretary of Labor (the Secretary) appointed 15 members to serve on ACCSH. OSHA also announces ACCSH will meet July 17-18, 2019.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone (202) 693-1999; email: meilinger.francis2@dol.gov.

For general information about ACCSH: Mr. Damon Bonneau, OSHA, Directorate of Construction, U.S. Department of Labor; telephone (202) 693-2183; email: bonneau.damon@dol.gov.

For copies of this Federal Register Notice: Electronic copies of this **Federal Register Notice** are available at: <http://www.regulations.gov>. This notice, as well as news releases and other relevant information, are also available at OSHA's web page at www.osha.gov.

SUPPLEMENTARY INFORMATION:

I. Background

ACCSH advises the Secretary of Labor and the Assistant Secretary of Labor for Occupational Safety and Health (Assistant Secretary) in the formulation of standards affecting the construction industry, and on policy matters arising in the administration of the safety and health provisions under the Contract Work Hours and Safety Standards Act (Construction Safety Act (CSA)) (40 U.S.C. 3701 *et seq.*) and the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) (see also 29 CFR 1911.10 and 1912.3). In addition, the OSH Act and CSA require the Assistant Secretary to consult with ACCSH before the agency proposes any occupational safety and health standard affecting construction activities (29 CFR 1911.10; 40 U.S.C. 3704).

ACCSH operates in accordance with the CSA, the OSH Act, the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2), and regulations issued pursuant to those statutes (29 CFR part 1912, 41 CFR part 102-3). ACCSH generally meets two times a year.

II. Appointment of Committee Members

ACCSH consists of 15 members appointed by the Secretary. ACCSH members generally serve two-year terms, unless they resign, cease to be qualified, become unable to serve, or the Secretary removes them (29 CFR 1912.3(e)). The Secretary may appoint ACCSH members to successive terms.

The allocation of members for each category of ACCSH membership is:

- Five members who are qualified by experience and affiliation to present the viewpoint of employees in the construction industry;
- Five members who are similarly qualified to present the viewpoint of employers in the construction industry;
- Two public members, qualified by knowledge and experience to make a useful contribution to the work of ACCSH, such as those who have professional or technical experience and competence with occupational safety and health in the construction industry;
- Two representatives of State safety and health agencies; and
- One representative designated by the Secretary of the Department of Health and Human Services.

OSHA received nominations of highly qualified individuals in response to the agency's request for nominations (83 FR 46972, September 17, 2018). The Secretary appointed individuals to serve on the Committee who have broad experience relevant to the issues to be examined by the Committee. The ACCSH membership is as follows:

Employee Representatives

- Palmer L. Hickman, Electrical Training ALLIANCE;
- Randall A. Krocka, Sheet Metal Occupational Health Institute Trust;
- Mark S. Mullins, Elevator Industry Work Preservation Fund;
- Richard Tessier, United Union of Roofers, Waterproofers, and Allied Workers Representative Research and Education Joint Trust; and
- Christina Trahan Cain, North America's Building Trades Unions.

Employer Representatives

- Kevin Cannon, Associated General Contractors of America (ACCSH Chair);
- Fravel Combs, M.A. Mortenson Company;
- Cindy DePrater, Turner Construction Company;
- Greg Sizemore, Associated Builders and Contractors; and
- Wesley L. Wheeler, National Electrical Contractors Association.

Public Representatives

- Christopher Fought, General Motors, LLC; and

- R. Ronald Sokol, Safety Council of Texas City.

State Representatives

- Christopher Mabry, North Carolina Department of Labor; and
- Charles Stribling, Kentucky Labor Cabinet Department of Workplace Standards.

Federal Representative

- Dr. G. Scott Earnest, National Institute for Occupational Safety and Health.

III. Meeting Information

DATES: ACCSH will meet from 12:00 to 4:00 p.m., ET, Wednesday, July 17, 2019, and from 9:00 a.m. to 4:00 p.m., ET, Thursday, July 18, 2019.

ADDRESSES: The Committee will meet at the U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210. The Committee will meet in Conference Rooms N-5437 A, B, C, & D. Meeting attendees must use the visitor's entrance located at 3rd & C Streets NW.

Meeting agenda: The tentative agenda for this meeting includes:

- Assistant Secretary's agency update and remarks;
- Directorate of Construction update;
- ACCSH's consideration of, and recommendation on, the following proposals:

—Adding a reference to the definition of “confined space” that applies to welding activities in construction;

—Clarifying the requirements for the fit of personal protective equipment in construction;

- Directorate of Cooperative and State Programs update;
- Directorate of Standards and Guidance update;
- Directorate of Technical Support and Emergency Management update;
- Directorate of Training and Education update;
- NIOSH update;
- Office of Communications update;
- Safety Stand-Down updates; and,
- Public Comment Period.

Submission of comments and requests to speak: Submit comments and requests to speak at the ACCSH meeting by July 5, 2019, identified by the docket number for this **Federal Register** notice (Docket No. OSHA-2018-0012), using one of the following methods:

Electronically: You may submit comments, including attachments, electronically at: <http://www.regulations.gov>, the Federal eRulemaking Portal. Follow the online instructions for submitting comments.

Facsimile: If your comments, including attachments, do not exceed 10

pages, you may fax them to the OSHA Docket Office at (202) 693-1648.

Regular mail, express mail, hand delivery, and messenger or courier service: You may submit comments and attachments to the OSHA Docket Office, Docket No. OSHA-2018-0012, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (express mail, hand (courier) delivery, and messenger service) are accepted during the OSHA Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Requests for special accommodations: Submit requests for special accommodations for this ACCSH meeting by July 5, 2019, to Ms. Veneta Chatmon, OSHA, Directorate of Construction, Room N-3468, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210; telephone (202) 693-2020; email: chatmon.veneta@dol.gov.

Instructions: All submissions must include the agency name and the OSHA docket number for this **Federal Register** notice (Docket No. OSHA-2018-0012). Because of security-related procedures, submissions by regular mail may result in a significant delay in receipt. Please contact the OSHA Docket Office for information about security procedures for making submissions by express mail, hand (courier) delivery, and messenger service.

OSHA will place comments and requests to speak, including personal information, in the public docket, which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security Numbers and birthdates.

Docket: To read or download documents in the public docket for this ACCSH meeting, go to <http://www.regulations.gov>. All documents in the public docket are listed in the index; however, some documents (e.g., copyrighted material) are not publicly available to read or download through <http://www.regulations.gov>. All submissions are available for inspection and, when permitted, copying at the OSHA Docket Office at the above address. For information on using <http://www.regulations.gov> to make submissions or to access the docket, click on the “Help” tab at the top of the homepage. Contact the OSHA Docket Office for information about materials not available through that website and for assistance in using the internet to locate submissions and other documents in the docket.

Authority and Signature

Loren Sweatt, Acting Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice under the authority granted by 29 U.S.C. 655(b)(1) and 656(b), 5 U.S.C. App. 2, Secretary of Labor's Order No. 1-2012 (77 FR 3912), and 29 CFR part 1912.

Signed at Washington, DC, on June 11, 2019.

Loren Sweatt,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2019-12676 Filed 6-14-19; 8:45 am]

BILLING CODE 4510-26-P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act: Notice of Agency Meeting

TIME AND DATE: 10:00 a.m., Thursday, June 20, 2019.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314-3428.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. NCUA Rules and Regulations, Risk-Based Capital.

CONTACT PERSON FOR MORE INFORMATION: Gerard Poliquin, Secretary of the Board, Telephone: 703-518-6304.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2019-12921 Filed 6-13-19; 4:15 pm]

BILLING CODE 7535-01-P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comment.

SUMMARY: The National Credit Union Administration (NCUA), as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the following extensions of a currently approved collection, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments should be received on or before August 16, 2019 to be assured consideration.

ADDRESSES: Interested persons are invited to submit written comments on the information collections to Dawn Wolfgang, National Credit Union Administration, 1775 Duke Street, Suite 5080, Alexandria, Virginia 22314; Fax No. 703-519-8579; or Email at PRAComments@NCUA.gov.

FOR FURTHER INFORMATION CONTACT: Address requests for additional information to the address above or telephone 703-548-2279.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133-0061.

Title: Central Liquidity Facility, 12 CFR part 725.

Forms: NCUA Forms 8702, 8703, 7001, 7002, 7003, 7004, and 8700C.

Type of Review: Extension of a currently approved collection.

Abstract: Part 725 contains the regulations implementing the National Credit Union Central Liquidity Facility Act, subchapter III of the Federal Credit Union Act. The NCUA Central Liquidity Facility is a mixed-ownership Government corporation within NCUA. It is managed by the NCUA Board and is owned by its member credit unions. The purpose of the Facility is to improve the general financial stability of credit unions by meeting their liquidity needs and thereby encourage savings, support consumer and mortgage lending and provide basic financial resources to all segments of the economy. The Central Liquidity Facility achieves this purpose through operation of a Central Liquidity Fund (CLF). The collection of information under this part is necessary for the CLF to determine credit worthiness, as required by 12 U.S.C 1795e(2).

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

Estimated No. of Respondents: 5.

Estimated No. of Responses per Respondent: 4.

Estimated Total Annual Responses: 20.

Estimated Burden Hours per Response: 0.69.

Estimated Total Annual Burden Hours: 14.

Reason for Change: Adjustment are being made to provide a current accounting of respondents participating under this part.

OMB Number: 3133-0133.

Title: Investments and Deposit Activities, 12 CFR part 703.

Type of Review: Extension of a currently approved collection.

Abstract: The National Credit Union Administration (NCUA) Federal Credit Union Act, 12 U.S.C. 1757(7), 1757(8), 1757(15), lists securities, deposits, and other obligations in which a Federal

Credit Union (FCU) may invest. The regulations related to these areas are contained in Part 703 and Section 721.3 of the NCUA Rules and Regulations which set forth requirements related to maintaining an adequate investment program. The information collected is used by the NCUA to determine compliance with the appropriate sections of the NCUA Rules and Regulations and Federal Credit Union Act, which governs investment and deposit activities on the basis of safety and soundness concerns. It is used to determine the level of risk that exists within a credit union, the actions taken by the credit union to mitigate such risk, and helps prevent losses to federal credit unions and the National Credit Union Share Insurance Fund (NCUSIF).

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

Estimated No. of Respondents: 3,393.

Estimated No. of Responses per Respondent: 51.68.

Estimated Total Annual Responses: 175,350.

Estimated Burden Hours per Response: 0.30.

Estimated Total Annual Burden Hours: 53,959.

Reason for Change: Adjustments are being made to provide an update-to-date reporting of activities under this part; remove regulatory burden previously identified as information collection burden, and amended some activities under this part that reported no activity since the last reporting cycle.

OMB Number: 3133-0182.

Title: Bank Conversions and Mergers, 12 CFR part 708a.

Type of Review: Extension of a currently approved collection.

Abstract: Part 708a of NCUA's Rules and Regulations covers the conversion of federally insured credit unions (credit unions) to mutual savings banks (MSBs) and mergers of credit unions into both mutual and stock banks (banks). Part 708a requires credit unions that intend to convert to MSBs or merge into banks to provide notice and disclosure of their intent to convert or merge to their members and NCUA, and to conduct a membership vote. In addition, Subpart C requires credit unions that intend to merge into banks to determine the merger value of the credit union. The information collection allows NCUA to ensure compliance with statutory and regulatory requirements for conversions and mergers and ensures that members of credit unions have sufficient and accurate information to exercise an informed vote concerning a proposed conversion or merger.

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

Estimated No. of Respondents: 1.

Estimated No. of Responses per Respondent: 13.

Estimated Total Annual Responses: 13.

Estimated Burden Hours per Response: 30.

Estimated Total Annual Burden Hours: 391.

Reason for Change: Adjustments are being made to provide an update-to-date reporting of activities under this part.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) Whether the collection of information is necessary for the proper execution of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on June 12, 2019.

Dated: June 12, 2019.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2019-12747 Filed 6-14-19; 8:45 am]

BILLING CODE 7535-01-P

NATIONAL CREDIT UNION ADMINISTRATION

Submission for OMB Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice.

SUMMARY: The National Credit Union Administration (NCUA) will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice.

DATES: Comments should be received on or before July 17, 2019 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimates, or any other aspect of the information collections, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for NCUA, New Executive Office Building, Room 10235, Washington, DC 20503, or email at OIRA_Submission@OMB.EOP.gov and (2) NCUA PRA Clearance Officer, 1775 Duke Street, Suite 5080, Alexandria, VA 22314, or email at PRAComments@ncua.gov.

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by contacting Dawn Wolfgang at (703) 548-2279, emailing PRAComments@ncua.gov, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133-0039.

Type of Review: Extension of a currently approved collection.

Title: Borrowed Funds from Natural Persons, 12 CFR 701.38.

Abstract: Section 701.38 of the NCUA regulations grants federal credit unions the authority to borrow funds from a natural person as long as they maintain a signed promissory note which includes the terms and conditions of maturity, repayment, interest rate, method of computation and method of payment; and the promissory note and any advertisements for borrowing have clearly visible language stating that the note represents money borrowed by the credit union and does not represent shares and is not insured by the National Credit Union Insurance Fund (NCUSIF). NCUA will use this information to ensure a credit union's natural person borrowings are in compliance and address all regulatory and safety and soundness requirements.

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

Estimated Total Annual Burden Hours: 31.

OMB Number: 3133-0129.

Type of Review: Extension of a currently approved collection.

Title: Corporate Credit Union, 12 CFR part 704.

Abstract: Part 704 of NCUA's regulations established the regulatory framework for corporate credit unions. This includes various reporting and recordkeeping requirements as well as safety and soundness standards. NCUA has established and regulates corporate credit unions pursuant to its authority under sections 120, 201, and 209 of the Federal Credit Union Act, 12 U.S.C. 1766(a), 1781, and 1789. The collection

of information is necessary to ensure that corporate credit unions operate in a safe and sound manner by limiting risk to their natural person credit union members and the National Credit Union Share Insurance Fund.

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

Estimated Total Annual Burden Hours: 495.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on June 12, 2019.

Dated: June 12, 2019.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2019-12744 Filed 6-14-19; 8:45 am]

BILLING CODE 7535-01-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: The National Endowment for the Humanities will hold fourteen meetings of the Humanities Panel, a federal advisory committee, during July 2019. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** for meeting dates. The meetings will open at 8:30 a.m. and will adjourn by 5:00 p.m. on the dates specified below.

ADDRESSES: The meetings will be held at Constitution Center, 400 7th Street SW, Washington, DC 20506, unless otherwise indicated.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606-8322; evoyatzis@neh.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. *Date:* July 16, 2019.

This meeting will discuss applications on the topic of Humanities Centers, for the Infrastructure and Capacity Building Challenge Grants program, submitted to the Office of Challenge Grants.

2. *Date:* July 17, 2019.

This meeting will discuss applications on the topic of Art Museums, for the Infrastructure and Capacity Building Challenge Grants program, submitted to the Office of Challenge Grants.

3. *Date:* July 18, 2019.

This meeting will discuss applications on the topic of Digital Infrastructure, for the Infrastructure and Capacity Building Challenge Grants program, submitted to the Office of Challenge Grants.

4. *Date:* July 19, 2019.

This meeting will discuss applications on the topic of Cultural and Community Centers, for the Infrastructure and Capacity Building Challenge Grants program, submitted to the Office of Challenge Grants.

5. *Date:* July 22, 2019.

This meeting will discuss applications on the topic of Historic Buildings and sites, for the Infrastructure and Capacity Building Challenge Grants program, submitted to the Office of Challenge Grants.

6. *Date:* July 22, 2019.

This meeting will discuss applications for Fellowships for Advanced Social Science Research on Japan, submitted to the Division of Research Programs.

7. *Date:* July 23, 2019.

This meeting will discuss applications on the topic of Literature, for the Awards for Faculty grant program, submitted to the Division of Research Programs.

8. *Date:* July 24, 2019.

This meeting will discuss applications on the topics of Art History, History, Philosophy, and Religion, for the Awards for Faculty grant program, submitted to the Division of Research Programs.

9. *Date:* July 25, 2019.

This meeting will discuss applications on the topics of History, Latin American Studies, Media, and Social Sciences, for the Awards for Faculty grant program, submitted to the Division of Research Programs.

10. *Date:* July 25, 2019.

This meeting will discuss applications on the topics of State and Local History, for the Infrastructure and Capacity Building Challenge Grants program, submitted to the Office of Challenge Grants.

11. *Date:* July 26, 2019.

This meeting will discuss applications on the topic of Public Libraries, for the Infrastructure and Capacity Building Challenge Grants program, submitted to the Office of Challenge Grants.

12. *Date:* July 26, 2019.

This meeting will discuss applications on the topics of American

History and Studies, for the Awards for Faculty grant program, submitted to the Division of Research Programs.

13. *Date:* July 29, 2019.

This meeting will discuss applications on the topic of Art Museums, for the Infrastructure and Capacity Building Challenge Grants program, submitted to the Office of Challenge Grants.

14. *Date:* July 31, 2019.

This meeting will discuss applications on the topic of Museums, for the Infrastructure and Capacity Building Challenge Grants program, submitted to the Office of Challenge Grants.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: June 12, 2019.

Elizabeth Voyatzis,

Committee Management Officer, National Endowment for the Humanities.

[FR Doc. 2019-12701 Filed 6-14-19; 8:45 am]

BILLING CODE 7536-01-P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meetings; Annual Board of Directors Meeting

TIME AND DATE: 2:00 p.m., Thursday, June 27, 2019.

PLACE: NeighborWorks America—Gramlich Boardroom, 999 North Capitol Street NE, Washington, DC 20002.

STATUS: Open (with the exception of Executive Session).

MATTERS TO BE CONSIDERED: The General Counsel of the Corporation has certified that in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552(b)(2) and (4) permit closure of the following portion(s) of this meeting:

- Report from CEO
- Board and Officer Elections

Agenda

- I. CALL TO ORDER
- II. Approval of Minutes
- III. Executive Session: Report from CEO
- IV. Executive Session: Board/Officer Elections
- V. Action Item Grants to Capital Corps
- VI. Discussion Item Audit Committee Report

VII. Discussion Item Investment Policy
VIII. Discussion Item Annual Ethics Review

IX. Discussion Item Client Management System

X. Discussion Item Preview of Federal Budget Process—FY2020 and FY2021

XI. Management Program Background and Updates

XII. Adjournment

CONTACT PERSON FOR MORE INFORMATION:

Rutledge Simmons, EVP & General Counsel/Secretary, (202) 760-4105; Rsimmons@nrc.gov.

Rutledge Simmons,

EVP & General Counsel/Corporate Secretary.

[FR Doc. 2019-12907 Filed 6-13-19; 4:15 pm]

BILLING CODE 7570-02-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52-025 and 52-026; NRC-2008-0252]

Southern Nuclear Operating Company Inc; Vogtle Electric Generating Plant Units 3 and 4; Routing of Class 1E Division Cables Supporting Passive Containment Cooling

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic design control document (DCD) and is issuing License Amendment No. 161 for Unit 3 and No. 159 for Unit 4 to Combined Licenses (COLs), NPF-91 and NPF-92. The COLs were issued to Southern Nuclear Operating Company, Inc., and Georgia Power Company, Oglethorpe Power Corporation, MEAG Power SPVM, LLC, MEAG Power SPVJ, LLC, MEAG Power SPVP, LLC, and the City of Dalton, Georgia (collectively SNC); for construction and operation of the Vogtle Electric Generating Plant (VEGP) Units 3 and 4, located in Burke County, Georgia.

The granting of the exemption allows the changes to Tier 1 information asked for in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

DATES: The exemption and amendment were issued on May 20, 2019.

ADDRESSES: Please refer to Docket ID NRC-2008-0252 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-2008-0252. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301-287-9127; email: Jennifer.Borges@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "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. The request for the amendment and exemption was designated License Amendment Request (LAR 18-028) and submitted by letter dated November 16, 2018, and supplemented January 24, 2019, and available in ADAMS under Accession Nos. ML18320A225 and ML19024A179.

- *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: Peter C. Hearn, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1189; email: Peter.Hearn@NRC.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC issuing License Amendment Nos. 161 for Unit 3 and No. 159 for Unit 4 to COLs NPF-91 and NPF-92 and is granting an exemption from Tier 1 information in the plant-specific DCD for the AP1000. The AP1000 DCD is incorporated by reference in appendix D, "Design Certification Rule for the AP1000," to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR). The exemption, granted pursuant to paragraph A.4 of section VIII, "Processes for Changes and

Departures,” of 10 CFR part 52, appendix D, allows the licensee to depart from the Tier 1 information. With the requested amendment, SNC sought proposed changes to Updated Final Safety Analysis Report Tier 2 information. The proposed amendment also involves related changes to plant-specific Tier 1 information, with corresponding changes to the associated COL Appendix C information. Specifically, the licensee requested changes to reflect revisions in the routing of Class 1E cables associated with the passive containment cooling system. Additionally, related consistency revisions in the safe shutdown evaluation divisional separation information are proposed.

Part of the justification for granting the exemption was provided by the review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in §§ 50.12, 52.7, and section VIII.A.4 of appendix D to 10 CFR part 52. The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML19113A261.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to SNC for VEGP Units 3 and 4 (COLs NPF-91 and NPF-92). The exemption documents for VEGP Units 3 and 4 can be found in ADAMS under Accession Nos. ML19113A259 and ML19113A260, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COLs NPF-91 and NPF-92 are available in ADAMS under Accession Nos. ML19113A255 and ML19113A257, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to VEGP Units 3 and Unit 4. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated November 16, 2018, and supplemented January 24, 2019, SNC requested from the

Commission an exemption to allow departures from Tier 1 information in the certified DCD incorporated by reference in 10 CFR part 52, appendix D, as part of license amendment request 18-028, “Routing of Class 1E Division Cables Supporting Passive Containment Cooling.”

For the reasons set forth in Section 3.2 of the NRC staff's Safety Evaluation, which can be found in ADAMS under Accession No. ML19113A261, the Commission finds that:

A. The exemption is authorized by law;

B. the exemption presents no undue risk to public health and safety;

C. the exemption is consistent with the common defense and security;

D. special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, SNC is granted an exemption from the certified DCD Tier 1 information, with corresponding information in COL Appendix C of the Facility Combined License as described in the licensee's request dated November 16, 2018, and supplemented January 24, 2019. This exemption is related to, and necessary for the granting of License Amendment Nos. 161 and 159 which is being issued concurrently with this exemption.

3. As explained in Section 5.0 of the NRC staff's Safety Evaluation (ADAMS Accession No. ML19113A261), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

By letter dated November 16, 2018, and supplemented by letter dated January 24, 2019, (ADAMS Accession Nos. ML18320A225 and ML19024A179). SNC requested that the NRC amend the COLs for VEGP, Units 3 and 4, COLs NPF-91 and NPF-92. The proposed amendment is described in Section I of this document.

The Commission has determined for these amendments that the application complies with the standards and

requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or COL, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on January 2, 2019 (84 FR 20). No comments were received during the 30-day comment period.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemption and issued the amendment that SNC requested on November 16, 2018, and supplemented January 24, 2019.

The exemption and amendment were issued to SNC on May 20, 2019, as part of a combined package (ADAMS Accession No. ML19113A253).

Dated at Rockville, Maryland, this 12th day of June 2019.

For the Nuclear Regulatory Commission.

Jennifer L. Dixon-Herrity,
Chief, Licensing Branch 2, Division of
Licensing, Siting, and Environmental
Analysis, Office of New Reactors.

[FR Doc. 2019-12675 Filed 6-14-19; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2019-0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of June 17, 24, July 1, 8, 15, 22, 2019.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of June 17, 2019

Tuesday, June 18, 2019

10:00 a.m.—Briefing on Human Capital and Equal Employment

Opportunity (Public Meeting)
(Contact: Jason Lising; 301-287-0569)

This meeting will be webcast live at the web address—<http://www.nrc.gov/>.
Thursday, June 20, 2019

10:00 a.m. Briefing on Results of the Agency Action Review Meeting (Public Meeting) (Contact: Andrea Mayer; 301-415-1081)

This meeting will be webcast live at the Web address—<http://www.nrc.gov/>.

Week of June 24, 2019—Tentative

There are no meetings scheduled for the week of June 24, 2019.

Week of July 1, 2019—Tentative

There are no meetings scheduled for the week of July 1, 2019.

Week of July 8, 2019—Tentative

There are no meetings scheduled for the week of July 8, 2019.

Week of July 15, 2019—Tentative

There are no meetings scheduled for the week of July 15, 2019.

Week of July 22, 2019—Tentative

There are no meetings scheduled for the week of July 22, 2019.

CONTACT PERSON FOR MORE INFORMATION:

For more information or to verify the status of meetings, contact Denise McGovern at 301-415-0681 or via email at Denise.McGovern@nrc.gov. The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: <http://www.nrc.gov/public-involve/public-meetings/schedule.html>.

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., Braille, large print), please notify Kimberly Meyer-Chambers, NRC Disability Program Manager, at 301-287-0739, by videophone at 240-428-3217, or by email at Kimberly.Meyer-Chambers@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301-415-1969), or by email at Wendy.Moore@nrc.gov.

Dated at Rockville, Maryland, this 13th day of June 2019.

For the Nuclear Regulatory Commission.

Denise L. McGovern,
Policy Coordinator, Office of the Secretary.
[FR Doc. 2019-12822 Filed 6-13-19; 4:15 pm]

BILLING CODE 7590-01-P

OFFICE OF PERSONNEL MANAGEMENT

January 2019 Pay Schedules

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The President adjusted the rates of basic pay and locality payments for certain Federal civilian employees effective in January 2019. This notice serves as documentation for the public record.

FOR FURTHER INFORMATION CONTACT: Kristen Foy, Pay and Leave, Employee Services, Office of Personnel Management; (202) 606-4194 or pay-leave-policy@opm.gov.

SUPPLEMENTARY INFORMATION: On December 28, 2018, the President signed Executive Order (E.O.) 13856 (84 FR 65), which provided that the 2019 pay rates for civilian employee pay schedules covered by the order remain at 2018 levels. On March 28, 2019, the President signed E.O. 13866 (84 FR 12853), which implemented a retroactive pay adjustment required by the Consolidated Appropriations Act, 2019 (Pub. L. 116-6, February 15, 2019). E.O. 13866 provides an overall average pay increase of 1.9 percent for the statutory pay systems. The pay rates in E.O. 13856 have been superseded.

The publication of this notice satisfies the requirement in Section 5(b) of E.O. 13866 that the Office of Personnel Management (OPM) publish appropriate notice of the 2019 locality payments in the **Federal Register**.

Schedule 1 of E.O. 13866 provides the rates for the 2019 General Schedule (GS) and reflects a 1.4 percent increase from 2018. Executive Order 13866 also includes the percentage amounts of the 2019 locality payments. (See Section 5 and Schedule 9 of Executive Order 13866.)

General Schedule employees receive locality payments under 5 U.S.C. 5304. Locality payments apply in the United States (as defined in 5 U.S.C. 5921(4)) and its territories and possessions. In 2019, locality payments ranging from 15.67 percent to 40.35 percent apply to GS employees in the 53 locality pay areas. The 2019 locality pay area

definitions can be found at: <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2019/locality-pay-area-definitions/>.

The 2019 locality pay percentages became effective the first day of the first pay period beginning on or after January 1, 2019 (January 6, 2019). An employee's locality rate of pay is computed by increasing his or her scheduled annual rate of pay (as defined in 5 CFR 531.602) by the applicable locality pay percentage. (See 5 CFR 531.604 and 531.609.)

Executive Order 13866 establishes the new Executive Schedule (EX), which incorporates a 1.4 percent increase required under 5 U.S.C. 5318 (rounded to the nearest \$100). By law, Executive Schedule officials are not authorized to receive locality payments.

Executive Order 13866 establishes the 2019 range of rates of basic pay for members of the Senior Executive Service (SES) under 5 U.S.C. 5382. The minimum rate of basic pay for the SES is \$127,914 in 2019. The maximum rate of the SES rate range is \$192,300 (level II of the Executive Schedule) for SES members who are covered by a certified SES performance appraisal system and \$176,900 (level III of the Executive Schedule) for SES members who are not covered by a certified SES performance appraisal system.

The minimum rate of basic pay for the senior-level (SL) and scientific and professional (ST) rate range was increased by 1.4 percent (\$127,914 in 2019), which is the amount of the across-the-board GS increase. The applicable maximum rate of the SL/ST rate range is \$192,300 (level II of the Executive Schedule) for SL or ST employees who are covered by a certified SL/ST performance appraisal system and \$176,900 (level III of the Executive Schedule) for SL or ST employees who are not covered by a certified SL/ST performance appraisal system. Agencies with certified performance appraisal systems for SES members and employees in SL and ST positions must also apply a higher aggregate limitation on pay—up to the Vice President's salary (\$246,900 in 2019.)

Note that Section 749 of division D of the Consolidated Appropriations Act, 2019, continues a pay freeze for certain senior political officials, except that it allows for an increase of up to 1.9 percent in the preexisting payable (frozen) rate for covered officials. The section 749 pay freeze extends through the last day of the last pay period that begins in calendar year 2019 (i.e., January 4, 2020, for those on the standard biweekly payroll cycle). Future

Congressional action will determine whether the pay freeze continues beyond that date. OPM guidance on the 2019 modified pay freeze for certain senior political officials can be found in CPM 2019–14 at <https://chcoc.gov/content/modified-pay-freeze-certain-senior-political-officials>.

Executive Order 13866 provides that the rates of basic pay for administrative law judges (ALJs) under 5 U.S.C. 5372 are increased by 1.4 percent (rounded to the nearest \$100) in 2019. The rate of basic pay for AL–1 is \$166,500 (equivalent to the rate for level IV of the Executive Schedule). The rate of basic pay for AL–2 is \$162,300. The rates of basic pay for AL–3/A through 3/F range from \$111,100 to \$153,800.

The rates of basic pay for members of Contract Appeals Boards are calculated as a percentage of the rate for level IV of the Executive Schedule. (See 5 U.S.C. 5372a.) Therefore, these rates of basic pay are increased by 1.4 percent in 2019.

On November 9, 2018, OPM issued a memorandum on behalf of the President's Pay Agent (the Secretary of Labor and the Directors of the Office of Management and Budget and OPM) that continues GS locality payments for ALJs and certain other non-GS employee categories in 2019. By law, EX officials, SES members, employees in SL/ST positions, and employees in certain other equivalent pay systems are not authorized to receive locality payments. (Note: An exception applies to certain grandfathered SES, SL, and ST employees stationed in a nonforeign area on January 2, 2010. See CPM 2009–27 at <https://www.chcoc.gov/content/nonforeign-area-retirement-equity-assurance-act>.) The memo is available at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2018/continuation-of-locality-payments-for-non-general-schedule-employees-november-9-2018.pdf>.

On March 28, 2019, OPM issued a memorandum (CPM 2019–11) on the retroactive 2019 pay adjustments. (See <https://chcoc.gov/content/retroactive-2019-pay-adjustment>.) The memorandum transmitted Executive Order 13866 and provided the 2019 salary tables, locality pay areas and percentages, and information on general pay administration matters and other related guidance. The “2019 Salary Tables” posted on OPM’s website at <http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/> are the official rates of pay for affected employees and are hereby incorporated as part of this notice.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2019–12668 Filed 6–14–19; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86083; File No. SR–NASDAQ–2019–048]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change To Amend Rule 4702 To Establish the “Midpoint Extended Life Order + Continuous Book” as a New Order Type

June 11, 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 29, 2019, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 4702 to establish the “Midpoint Extended Life Order + Continuous Book” as a new Order Type.

The text of the proposed rule change is available on the Exchange’s website at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to: (1) Amend Rule 4702(b) to establish the “Midpoint Extended Life Order + Continuous Book” or “M–ELO+CB” as a new Order Type on the Exchange; and (2) amend Rule 4703(n) to permit midpoint orders on the Continuous Book to execute against M–ELO+CBs when the Midpoint Trade Now Attribute is enabled on such midpoint orders.

Midpoint Extended Life Orders With Continuous Book

On March 7, 2018, the Commission issued an order approving the Exchange’s proposal to adopt the Midpoint Extended Life Order or “M–ELO” as a new Order Type.³ A M–ELO is a non-displayed order that is available to all members but interacts only with other M–ELOs. It is priced at the midpoint between the National Best Bid and Offer (“NBBO”) and it does not become eligible for execution until it completes a one-half second holding period (the “Holding Period”).⁴ Once the Holding Period elapses, a M–ELO becomes eligible for execution against other M–ELOs on a time-priority basis.⁵ Since its implementation the Midpoint Extended Life Order Type has achieved its design expectations. Approximately 12 million shares transact as Midpoint Extended Life Orders a day, interacting only with other Midpoint Extended Life Orders thus avoiding interaction with Intermarket Sweep Orders, IOC Orders and other aggressively price Order Types.

M–ELO+CB is a variation on the M–ELO concept. That is, a M–ELO+CB is an Order Type that has all of the characteristics and attributes of a regular M–ELO, except that, in addition to executing against other M–ELO+CBs and M–ELOs, it also may access additional sources of “M–ELO-like” liquidity on the Exchange’s Continuous Book.

Specifically, if a member enters a M–ELO+CB, then the M–ELO+CB will be subject to the same one-half second

³ See Securities Exchange Act Release No. 34–82825 (Mar. 7, 2018), 83 FR 10937 (Mar. 13, 2018).

⁴ If a member modifies a M–ELO during the Holding Period, other than to decrease the size of the order or to modify the marking of a sell order as long, short, or short exempt, then such modification will cause the Holding Period to reset.

⁵ If a member modifies a M–ELO after the Holding Period elapses, other than to decrease the size of the order or to modify the marking of a sell order as long, short, or short exempt, then such modification will trigger a new Holding Period for the order.

Holding Period as a regular M-ELO. Upon expiration of the Holding Period, the M-ELO+CB will become available for execution, at the midpoint of the NBBO, against other M-ELOs and M-ELO+CBs. Additionally, it will become eligible to execute, again at the midpoint of the NBBO, against Non-Displayed Orders with Midpoint Pegging and Midpoint Peg Post-Only Orders (collectively, "Midpoint Orders") if: (1) The Midpoint Orders have the Midpoint Trade Now Attribute enabled (as discussed below); (2) the Midpoint Order has rested on the Exchange's Continuous Book for at least one-half second; (3) no other order is resting on the Continuous Book that has a more aggressive price than the current midpoint of the NBBO; and (4) the resting Midpoint Order fulfills any minimum quantity restriction that exists for the M-ELO+CB. The execution priority for the above orders will be ranked based on the time at which such orders become eligible to execute against each other.

In all respects other than described above, a M-ELO+CB will be identical to an ordinary M-ELO. That is, a M-ELO+CB may be assigned a limit price, in which case it would be: (1) Eligible for execution in time priority after satisfying the Holding Period if upon acceptance of the order by the system, the midpoint price is within the limit set by the participant; or (2) held until the midpoint falls within the limit set by the participant, at which time the Holding Period would commence and thereafter the system would make the order eligible for execution in time priority.

Also like an ordinary M-ELO, if a M-ELO+CB is modified by a member (other than to decrease the size of the order or to modify the marking of a sell order as long, short, or short exempt) during the Holding Period, the system would restart the Holding Period. Movements in the NBBO while a MELO+CB is in the Holding Period would not reset the Holding Period, even if, as a result of the NBBO move, the MELO+CB's limit price is less aggressive than the NBBO midpoint. Also, if a MELO+CB has met the Holding Period, but the NBBO midpoint is no longer within its limit, it would nonetheless be ranked in time priority among other M-ELOs and M-ELO+CBs if the NBBO later moves such that the midpoint is within the order's limit price (*i.e.*, no new Holding Period).

MELO+CB Orders may be entered via any of the Exchange's order entry protocols (other than QIX). If there is no NBB or NBO, the Exchange would accept M-ELO+CBs but would not allow M-ELO+CB executions until there

is an NBBO. M-ELO+CBs would be eligible to execute if the NBBO is locked. If the NBBO is crossed, M-ELO+CBs would be held by the system until such time that the NBBO is no longer crossed, at which time they would be eligible to trade. M-ELO+CBs may be cancelled at any time, including during the Holding Period.

M-ELO+CBs would be active only during Market Hours. M-ELO+CBs entered during Pre-Market Hours would be held by the system in time priority until Market Hours. M-ELO+CBs entered during Post-Market Hours would not be accepted by the system, and M-ELO+CBs remaining unexecuted after 4:00 p.m. ET would be cancelled by the system. M-ELO+CB Orders would not be eligible for the Exchange's Opening, Halt, and Closing Crosses.

M-ELO+CBs must be entered with a size of at least one round lot, and any shares of a M-ELO+CB remaining after an execution that are less than one round lot would be cancelled.⁶ M-ELO+CBs may have a minimum quantity order attribute. M-ELO+CBs may not be designated with a time-in-force of immediate or cancel and are ineligible for routing. They also may not have the discretion, reserve size, attribution, intermarket sweep order, display, or trade now order attributes.

M-ELO+CB executions would be reported to Securities Information Processors and provided in the Exchange's proprietary data feed without any new or special indication. The Exchange would, however, include in its existing volume reports delayed weekly aggregated statistics, as well as delayed monthly aggregated block-sized trading statistics, for M-ELO+CB executions. Specifically, the Exchange would add to the existing reports it publishes on *Nasdaqtrader.com* weekly aggregated statistics showing the number of shares and transactions of M-ELO+CBs executed on the Exchange by security. This information would be published with a two-week delay for NMS stocks in Tier 1 of the LULD Plan, and a four-week delay for all other NMS stocks. The Exchange also would add to the existing reports it publishes on *Nasdaqtrader.com* monthly aggregated block-sized trading statistics of total shares and total transactions of M-ELO+CBs executed on the Exchange. This information would be published no earlier than one month following the end of the month for which trading was

⁶ The Exchange notes that it recently filed a proposal to allow for odd-lot sized orders to be eligible for M-ELOs. See SR-NASDAQ-2019-044 (May 20, 2019). If and when the SEC approves this filing, the Exchange intends for it to also apply to M-ELO+CBs.

aggregated. Under the proposal, a transaction would be considered "block-sized" if it meets any of the following criteria: (1) 10,000 or more shares; (2) \$200,000 or more in value; (3) 10,000 or more shares and \$200,000 or more in value; (4) 2,000 to 9,999 shares; (5) \$100,000 to \$199,999 in value; or (6) 2,000 to 9,999 shares and \$100,000 to \$199,999 in value.

As part of the surveillance the Exchange currently performs, M-ELO+CBs would be subject to real-time surveillance to determine if they are being abused by market participants. In addition, as is the case for ordinary M-ELOs, the Exchange will monitor the use of M-ELO+CBs with the intent to apply additional measures, as necessary, to ensure their usage is appropriately tied to the intent of the Order Type. This monitoring may include metrics tied to participant behavior, such as the percentage of M-ELO+CBs that are cancelled prior to the completion of the Holding Period, the average duration of M-ELO+CBs, and the percentage of M-ELO+CBs where the NBBO midpoint is within the limit price when received. The Exchange is committed to determining whether there is opportunity or prevalence of behavior that is inconsistent with normal risk management behavior. Manipulative abuse is subject to potential disciplinary action under the Exchange's Rules, and other behavior that is not necessarily manipulative but nonetheless frustrates the purposes of the M-ELO+CB Order Type may be subject to penalties or other participant requirements to discourage such behavior, should it occur.

Amending the Midpoint Trade Now Attribute To Enable Execution Against M-ELO+CB

To facilitate the establishment of the M-ELO+CB Order Type, the Exchange concurrently proposes to amend the Midpoint Trade Now Attribute, at Rule 4703(n), such that if a participant opts to enable Midpoint Trade Now on a Midpoint Order, then in addition to the normal functionality that the Attribute provides,⁷ the Attribute would also permit the Midpoint Order to execute against a M-ELO+CB (provided that the Midpoint Order meets the eligibility

⁷ The Midpoint Trade Now Order Attribute presently allows a resting Order that becomes locked at its non-displayed price by an incoming Midpoint Peg Post-Only Order to automatically execute against crossing or locking interest, including potentially against the Midpoint Peg Post-Only Order that locked the resting Order, as a liquidity taker. See Rule 4703(n); Securities Exchange Act Release No. 84621 (Nov. 19, 2018), 83 FR 60514 (Nov. 26, 2018) (SR-NASDAQ-2018-090).

requirements for doing so). In other words, a Midpoint Order with the Midpoint Trade Now Attribute enabled would become eligible to execute against a marketable M-ELO+CB only if it does not first execute against another order on the Continuous Book within one-half second of its entry. Executions with M-ELO+CB orders will be trade reported like any other time they remove liquidity.

Example of Use of M-ELO+CB

The following example demonstrates how the M-ELO+CB will operate in practice. Assume for purposes of this example that the NBBO remains constant at \$84.00 x \$86.00, such that the midpoint is \$85.00. At 10:05:27:00 a.m., Participant A enters a Midpoint Order on the Continuous Book with the Midpoint Trade Now Attribute enabled. The Midpoint Order is to sell 1,000 shares with a limit price of \$85.00. The Midpoint Order posts to the Continuous Order Book at \$85.00. At 10:05:37:00 a.m., Participant B enters a M-ELO+CB to buy 1,000 shares at \$85.00. After the Holding Period expires, the M-ELO+CB posts to the M-ELO Order Book at \$85.00. No other M-ELOs or M-ELO+CBs are available to execute against the M-ELO+CB at the time it becomes marketable. Because the Midpoint Order with Midpoint Trade Now has rested on the Continuous Order Book for more than one-half second, it becomes eligible to match against the M-ELO+CB, which continues to rest on the M-ELO Book. Because no other orders are resting on the Continuous Book with a price more aggressive than the NBBO, the M-ELO+CB will execute in full against the Midpoint Order at \$85.00.

Implementation

The Exchange plans to implement M-ELO+CB within thirty days after Commission approval of the proposal. The Exchange will make the M-ELO+CB available to all members and to all securities upon implementation. The Exchange will announce the implementation date by Equity Trader Alert.⁸

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁰ in particular, in that it is designed to promote just and equitable principles of

trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The reasons why the M-ELO+CB Order Type is consistent with the Act are generally the same as those that the Commission identified in its order approving the M-ELO Order Type.¹¹ The Exchange does not believe that the design of the M-ELO+CB presents concerns that are unique or materially different from those that the M-ELO presents.

For example, just as the Commission determined that the M-ELO “could create additional and more efficient trading opportunities on the Exchange for investors with longer investment time horizons, including institutional investors, and provide these investors with an ability to limit their information leakage and the market impact that could result from their orders,”¹² so too will the M-ELO+CB do so. By proposing to add M-ELO+CB as a new Order Type, the Exchange intends to enhance the utility of the M-ELO concept to investors by providing them with opportunities to execute M-ELOs where they cannot do so now. Indeed, a M-ELO+CB will have all of the characteristics and offer all of the benefits of an ordinary M-ELO, except that it will also afford M-ELO investors the ability to accomplish their investment strategies by sourcing liquidity from the Nasdaq Continuous Book, where approximately 55 million shares trade at Midpoint a day.

The proposal would remain consistent with the underlying purpose of a M-ELO, which is to enable investors to source liquidity on the Exchange by limiting interaction with intermarket sweep orders or other aggressively priced order types. By allowing M-ELO+CBs to access liquidity in the Continuous Book, the Exchange would not dilute the purpose of the M-ELO because the Exchange would only permit the M-ELO+CB to access liquidity on the Continuous Book that resembles M-ELOs—including because eligible orders must have rested on the Book for at least one-half second and because they must be non-displayed orders and execute at the midpoint of the NBBO. In addition, the option to access qualified midpoint liquidity on the continuous book is purely voluntary.

The proposal would also benefit those participants with Midpoint Orders

resting on the Exchange’s Continuous Book, insofar as the proposal would provide additional opportunities for such Midpoint Orders to execute against M-ELO+CBs if the Midpoint Order user voluntarily chooses to do so.

Like the M-ELO, the M-ELO+CB will not discriminate unfairly against other market participants because it will be available for voluntary use by all Exchange members. Moreover, the proposal is not unfairly discriminatory against participants that enter Midpoint Orders that have not rested for at least one-half second because imposition of this resting condition is necessary to ensure that M-ELO+CBs fulfill their purpose without the transitory risk of a change to the NBBO that may have the effect of an adverse execution. And again, participants will have a choice as to whether they wish for their Midpoint Orders to interact with M-ELO+CBs.

Like all M-ELOs and all other orders entered into Nasdaq, the Exchange will conduct real-time surveillance to monitor the use of M-ELO+CBs to ensure that such usage is appropriately tied to the intent of the Order Type. Also like the M-ELO, transactions in M-ELO+CB will be reported to the Securities Information Processor and will be provided in Nasdaq’s proprietary data feed in the same manner as all other transactions occurring on Nasdaq are done currently, namely, without any new or special indication that it is a M-ELO+CB execution. The Exchange believes that doing so is important to ensuring that investors are protected from any market impact that may occur if M-ELO or M-ELO+CB executions were reported with a special indication.

The Exchange does not believe that the proposed M-ELO+CB will negatively affect the quality of the market. To the contrary, the Exchange believes that the addition of M-ELO+CB will draw new market participants to the Exchange’s transparent and well-regulated market, including participants that were previously not utilizing M-ELO orders. Moreover, like the M-ELO, the M-ELO+CB will allow longer term investors an opportunity to find like-minded counterparties at the midpoint on Nasdaq. It will also allow participants with Midpoint Orders the option to choose for their Orders to interact with M-ELO+CBs, and if so, to execute in circumstances where they would not otherwise. Thus, the proposal would enhance liquidity opportunities of midpoint executions on the Exchange.

⁸ The Exchange plans to propose a fee structure for the M-ELO+CB in a subsequent Commission rule filing.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ See Securities Exchange Act Release No. 34–82825, *supra*, 83 FR at 10938–41.

¹² See *id.* at 10938–39.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the introduction of the M-ELO+CB will only boost the utility of the M-ELO among market participants who want the benefits of M-ELO but require additional trading flexibility. Accordingly, the Exchange expects that its proposal will draw new market participants to Nasdaq and increase the extent to which existing participants utilize the M-ELO concept. To the extent the proposed change is successful in attracting additional market participants, Nasdaq believes that the proposed change will promote competition among trading venues by making Nasdaq a more attractive trading venue for long-term investors and therefore capital formation.

Additionally, adoption of M-ELO+CB will not burden any market participants. Just as with an ordinary M-ELOs, the M-ELO+CB will be available to all Nasdaq members and it will be available on an optional basis. Thus, any member that seeks to avail itself of the benefits of a M-ELO+CB can choose accordingly. Although the proposal provides potential benefits for investors that select the M-ELO+CB order type, the Exchange believes that all market participants will benefit to the extent that this proposal contributes to a healthy and attractive market that is attentive to the needs of all types of investors.

The proposal also will not adversely impact market participants that choose not to use this M-ELO+CB because no changes need to be made to participants' systems to account for it. As discussed above, M-ELO+CB executions will be reported the same as other executions, without any new or special indicator.

Similarly, the proposal will benefit members that enter Midpoint Orders on the Continuous by providing them with flexibility to have their orders execute in situations where they would not do so now. Again, however, this flexibility will be optional. Any member that wants its Midpoint Orders to interact with M-ELO+CBs can choose accordingly.

In any event, the Exchange notes that it operates in a highly competitive market in which market participants can readily choose between competing venues if they deem participation in Nasdaq's market is no longer desirable. In such an environment, the Exchange

must carefully consider the impact that any change it proposes may have on its participants, understanding that it will likely lose participants to the extent a change is viewed as unfavorable by them. Because competitors are free to modify the incentives and structure of their markets, the Exchange believes that the degree to which modifying the market structure of an individual market may impose any burden on competition is limited. Last, to the extent the proposed change is successful in attracting additional market participants, Nasdaq also believes that the proposed change will promote competition among trading venues by making Nasdaq a more attractive trading venue for long-term investors and therefore capital formation.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2019-048 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-NASDAQ-2019-048. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2019-048, and should be submitted on or before July 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Eduardo A. Aleman,
Deputy Secretary.

[FR Doc. 2019-12655 Filed 6-14-19; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-86085; File No. SR-CboeBZX-2019-050]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Adopt Limit-on-Close ("LOC") and Market-on-Close ("MOC") Orders

June 11, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

¹³ 17 CFR 200.30-3(a)(12).

“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 6, 2019, Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) 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 Act³ and Rule 19b-4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the “Exchange” or “BZX Options”) proposes to adopt limit-on-close (“LOC”) and market-on-close (“MOC”) orders. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange’s website (http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In 2016, the Exchange’s parent company, Cboe Global Markets, Inc. (“Cboe Global”), which is also the parent company of Cboe Exchange, Inc. (“Cboe Options”) and Cboe C2 Exchange, Inc. (“C2”), acquired the Exchange, Cboe EDGA Exchange, Inc. (“EDGA”), Cboe EDGX Exchange, Inc.

(“EDGX or EDGX Options”), and Cboe BYX Exchange, Inc. (“BYX” and, together with the Exchange, C2, Cboe Options, EDGA, and EDGX, the “Cboe Affiliated Exchanges”). The Cboe Affiliated Exchanges are working to align certain system functionality, retaining only intended differences between the Cboe Affiliated Exchanges, in the context of a technology migration. Cboe Options intends to migrate its technology to the same trading platform used by the Exchange, C2 and EDGX Options in the fourth quarter of 2019. The proposal set forth below is intended to add certain functionality to the Exchange’s System that is available on Cboe Options in order to ultimately provide a consistent technology offering for market participants who interact with the Cboe Affiliated Exchanges.⁵ Although the Exchange intentionally offers certain features that differ from those offered by its affiliates and will continue to do so, the Exchange believes that offering similar functionality to the extent practicable will reduce potential confusion for Users.

The Exchange proposes to adopt LOC and MOC orders under Rule 21.1(f). Proposed Rule 21.1(f)(7) defines an LOC order as a limit order, and proposed Rule 21.1(f)(8) defines a MOC order as a market order, respectively, that it may only execute on the Exchange no earlier than three minutes prior to the market close.⁶ The System enters LOC and MOC orders into the Book in time sequence (based on the times at which the Exchange initially received them), where they may be processed in accordance with Rule 21.8.⁷ The Exchange notes that it does not have a closing auction in which market participants may participate in an auction rotation that determines the closing price for a series, like that of the equities space, but that the proposed MOC and LOC orders merely become executable three minutes prior to the market close. The Exchange queues LOC and MOC orders in the System until

three minutes before the market close. At that time, the System handles a LOC or MOC order as a limit order or market order, as applicable, and processes them in accordance with Rule 21.8. The Exchange believes that three minutes prior to the market close is a reasonable time prior to the market close to trigger MOC and LOC orders, as it provides those orders with sufficient time to interact with contra-side interest and potentially execute at a time close to the market close.⁸ The proposed LOC and MOC order definitions also provide that the System cancels an LOC order or an MOC order (or an unexecuted portion of an LOC or MOC order) that does not execute by the market close. This is consistent with the purpose of these orders, which is to execute near the market close on the day they were submitted to the Exchange. The Exchange notes that Users may not designate bulk messages as MOC or LOC, which is consistent with the current requirement that bulk messages must have a time-in-force of Day to encourage Users to provide liquidity to the Exchange’s market throughout the trading day and update bulk messages in response to changed market conditions day-to-day.⁹ The proposed order types are based on substantially similar order types available on Cboe Options.¹⁰ MOC and LOC orders allow a User to execute orders in a series close to the close time.

The Exchange also proposes to include in the proposed MOC definition additional order handling for MOC orders during a “Limit State” or “Straddle State” as defined in the Regulation NMS Plan to address Extraordinary Market Volatility (“Limit Up-Limit Down Plan”). The proposed change provides that a MOC order will not be elected if the underlying security

⁸ The Exchange notes that Cboe Options currently triggers the MOC and LOC orders three minutes prior to the market close.

⁹ See Rule 21.1(f)(3) which defines time-in-force of “Day” as an order, so designated, a limit order to buy or sell which, if not executed expires at market close. All bulk messages have a time-in-force of Day. See also Securities Exchange Act Release No. 84928 (December 21, 2018), 83 FR 67794 (December 31, 2018) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Adopt Definitions of Ports and Discontinue Bulk Order Functionality and Implement Bulk Message Functionality) (SR-CboeBZX-2018-092). Note Users may submit bulk messages within three minutes of the market close, which would ultimately be handled in the same manner as an LOC order.

¹⁰ See Cboe Options Rule 6.53, which defines a “market-on-close” order as a market or limit order to be executed as close as possible to the close of the market near to or at the closing price for the particular option series. The Exchange notes that in connection with migration, Cboe Options intends to propose the same definitions of market- and limit-on-close orders as proposed in this rule filing.

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 The Exchange also notes that its affiliated exchanges, C2 and EDGX Options, are simultaneously proposing to make similar changes in order to align functionality with Cboe Options.

⁶ See Rule 16.1(a)(35) which defines the term “market close” as the time specified by the Exchange for the cessation of trading in contracts on the Exchange for options on that market day. The time specified by the Exchange for the cessation of trading is set out in Rule 21.2, which specifies that orders and bids and offers shall be open and available for execution as of 9:30 a.m. Eastern Time and shall close as of 4:00 p.m. Eastern Time except for option contracts on Fund Shares, on exchange-traded notes including Index-Linked Securities, and on broad-based indexes, which may close as of 4:15 p.m. Eastern Time. See Rule 21.2(a).

⁷ Rule 21.8 describes how the System processes orders and quotes in the Book.

is in a Limit or Straddle State three minutes prior to the market close. If the underlying security exits the Limit or Straddle State prior to the market close, the System will attempt to re-evaluate, elect, and execute the order. The Exchange notes that the proposed handling of MOC orders in a Limit or Straddle State is consistent with the Limit Up-Limit Down Plan and is based on the corresponding Cboe Options rule regarding handling of MOC orders,¹¹ as well as other order type definitions within the Exchange Rules that provide for similar additional handling during Limit and Straddle States.¹²

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.¹³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁴ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed adoption of MOC and LOC orders serves to benefit investors by allowing Users flexibility to have orders only be eligible for execution near the close, a time in which maximum significant number of participants interact on the Exchange. The Exchange believes that the proposed change promotes just and equitable principles of trade because it

encourages increased participation near the close, thereby contributing to enhanced price discovery and transparency that will result in a closing price point that more closely reflects the interest of market participants. The Exchange also believes that the proposed change will benefit investors by fostering increased liquidity near the close. As stated, the proposed change is based on Cboe Options rules.¹⁶

Furthermore, the Exchange believes specifying that the MOC and LOC may execute no more than three minutes from the market close removes impediments to and perfects the mechanism of a free and open market and national market system and protects investors because it will allow Users greater flexibility regarding the execution of their orders and/or their customers' orders. The Exchange believes this three minute time-frame prior to the market close is a reasonable time prior to the market close to trigger MOC and LOC orders, because it provides those orders with sufficient times to interact with contra-side interest and to potentially execute at a time close to the market close.

The Exchange also believes not permitting bulk messages to be MOC and LOC orders will remove impediments to and perfect the mechanism of a free and open market and protect investors because it is consistent with the purpose of bulk messages. As stated, bulk messages are currently restricted to designation as time-in-force of Day in order to encourage Users to provide liquidity to the Exchange's market during the trading day and update bulk messages in response to day-to-day changed market conditions.¹⁷ Because MOC and LOC orders are only available for execution for three minutes prior to the market close, as opposed to during the entire trading day, Exchange believes that not permitting bulk messages to be MOC or LOC orders ensures that functionality available to Users is consistent with the purpose of bulk messages.

Additionally, the Exchange believes that the proposed additional order handling for MOC during a Limit or Straddle State protects investors because it is consistent with the Limit Up-Limit Down Plan and prevents a market order from executing outside of the specified price bands. This order handling is consistent with that of Cboe Options rules,¹⁸ as well as other order

type definitions within the Exchange Rules that provide for similar additional handling during Limit and Straddle States.¹⁹

Lastly, the Exchange notes that the proposed rule change is generally intended to align the functionality offered by the Exchange with functionality currently offered by Cboe Options in order to provide a consistent technology offering for the Cboe Affiliated Exchanges.²⁰ A consistent technology offering, in turn, will simplify the technology implementation, changes, and maintenance by Users of the Exchange that are also participants on Cboe Affiliated Exchanges.²¹ The Exchange believes this consistency will promote a fair and orderly national options market system. When Cboe Options migrates to the same technology as that of the Exchange and other Cboe Affiliated Exchanges, Users of the Exchange and other Cboe Affiliated Exchanges will have access to similar functionality on all Cboe Affiliated Exchanges. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition, as the proposed rule change will apply in the same manner to all orders submitted as MOC or as LOC. MOC and LOC orders will be available to all Users, and MOC and LOC orders from all Users will be handled in the same manner. The use of MOC and LOC orders will be voluntary. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition because the proposed change is based on rules that allow for substantially the same order types that are available on another options exchange.²²

¹¹ See Cboe Options Rule 6.45(d)(2).

¹² See Rule 21.1(d)(5) and (d)(11), which provide additional order handling for Market Orders and Stop Orders, respectively, in a Limit and/or Straddle State. The Exchange notes that during a Limit or Straddle State limit orders are not impacted and continue to be eligible for execution.

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ *Id.*

¹⁶ See *supra* note 10.

¹⁷ See *supra* note 9.

¹⁸ See *supra* note 11.

¹⁹ See *supra* note 12.

²⁰ See *supra* note 5.

²¹ *Id.*

²² See *supra* notes 10–11.

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 proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²³ and Rule 19b-4(f)(6) thereunder.²⁴

A proposed rule change filed under Rule 19b-4(f)(6)²⁵ normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii)²⁶ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to offer two order types that are substantially similar to order types that are currently available on Cboe Options. Thus, as represented by the Exchange, the proposed rule change does not introduce any new functionality or present any novel issues. For this reason, the Commission designates the proposed rule change to be operative on June 20, 2019, the day before the Exchange would like to implement MOC and LOC orders.²⁷

At any time within 60 days of the filing of the proposed rule change, the

Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeBZX-2019-050 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-CboeBZX-2019-050. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeBZX-2019-050 and

should be submitted on or before July 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019-12657 Filed 6-14-19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-86082; File No. SR-CboeEDGX-2019-034]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Update Its Price Adjust Process To Allow for the Process To Apply to Bulk Messages

June 11, 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 4, 2019, Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") 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 Act³ and Rule 19b-4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX Options") proposes to update its Price Adjust process to allow for the process to apply to bulk messages. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/options/regulation/rule_filings/edgx/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

²⁸ 17 CFR 200.30-3(a)(12).

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).

²³ 15 U.S.C. 78s(b)(3)(A).

²⁴ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change 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.

²⁵ 17 CFR 240.19b-4(f)(6).

²⁶ 17 CFR 240.19b-4(f)(6)(iii).

²⁷ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules to allow for the Price Adjust process to apply to bulk messages and make corresponding changes where applicable. The Exchange is proposing these amendments in order to provide Users that submit bulk messages with functionality that is currently available to them for orders.

In December 2018, the Exchange adopted bulk messaging functionality, in which a User may enter, modify or cancel up to an Exchange-specified number of bids and offers in a single message. A User may submit a bulk message through a bulk port.⁵ The System⁶ handles bulk message bids and offers in the same manner as it handles an order, or quote if submitted by a Market Maker, unless the Rules specify otherwise. Currently, Rule 21.1(i)(1) subjects orders to the Price Adjust process.⁷ Pursuant to the Price Adjust process, if an order (that is not an all-or-none ("AON") order⁸), at the time of entry, would lock or cross a Protected Quotation of another options exchange or the Exchange (subjecting it to the Price Adjust process), the System ranks⁹ and displays the order at one minimum price variation below (above)

the current NBO (NBB). If a non-AON order is subject to the Price Adjust process by locking or crossing the offer (bid) of a AON order resting on the EDGX Options Book at or better than the Exchange's best offer (bid), the System ranks the resting AON order at one minimum price variation above (below) the bid (offer) of the non-AON order. Additionally, the System ranks an AON orders that cross a Protected Offer (Bid) of another options exchange or a sell (buy) AON order resting on the EDGX Options Book at or better than the Exchange's best offer (bid), at a price equal to the Protected Offer (Bid) or the offer (bid) of the resting AON order, respectively. AON orders that lock or cross a Protected Offer (Bid) of the Exchange are ranked by the System at a price one minimum price variation below (above) the Protected Offer (Bid). The Price Adjust process applies to orders (subject to the User's instructions or the Rules) that do not execute upon entry and go to rest in the EDGX Options Book (for example, because an order is not marketable upon entry, is not eligible to route, etc.). It ensures these orders rest at executable prices in accordance with linkage rules.¹⁰ Current Rule 21.1(i)(4) states that the Price Adjust process does not apply to bulk messages.¹¹

Furthermore, current Rule 21.1(j)(3)(A) provides for additional handling provisions regarding bulk messages submitted through bulk quoting ports. Specifically, Rule 21.1(j)(3)(A)(iv) provides that the System will cancel or reject a Post Only bulk message bid (offer) with a price that locks or crosses the Exchange best offer (bid) or ABO (ABB).¹² The Exchange notes that bulk messages that include a Post Only instruction do not remove liquidity from the Exchange or route away to other exchanges.¹³ Current Rule 21.1(j)(3)(A)(iv) is consistent with how the System handles

a Post Only order not subject to the Price Adjust process that locks or crosses the opposite side Exchange best bid or offer ("BBO") or if displaying the order on the EDGX Options Book would create a violation of linkage Rule 27.3 (Locked and Crossed Markets). Additionally, current Rule 21.1(j)(3)(A)(v) provides that the System executes a Book Only bulk message bid (offer) that locks or crosses the ABO (ABB) against offers (bids) resting in the EDGX Options Book at prices the same as or better than the ABO (ABB) and then cancels the unexecuted portion of that bid (offer). Book Only orders do not route away to other exchanges.¹⁴ Current Rule 21.1(j)(3)(A)(v) is consistent with how the System handles Book Only orders not subject to the Price Adjust process.¹⁵ The Exchange also notes that pursuant to Rule 21.1(j)(3)(a)(ii), a Market Maker with an appointment in a class may designate a bulk message for that class as Post Only or Book Only, and other Users (*i.e.*, non-Market Makers or Market Makers without an appointment in a class) must designate a bulk message for that class as Post Only.¹⁶

The Exchange now proposes to amend Rule 21.1(i)(1) to subject bulk messages to the Price Adjust process. Specifically, the proposed rule change will subject a User's bulk messages to the Price Adjust process, which will apply to all bulk message bids and offers within a single message, unless a User designates a bulk message as Cancel Back (as described below), which will also apply to all bulk message bids and offers within a single message. As such, the Exchange also proposes to delete subparagraph (i)(4) which disallows bulk messages from the Price Adjust process. The Exchange notes that Users have noted the regularity with which their bulk message bids and offers are rejected because Price Adjust does not apply to them. As a result, some Users find this inefficient when submitting bulk messages. The Exchange believes that allowing bulk message bids and offers to be subject to the Price Adjust process will provide market participants with

¹⁰ See Chapter XXVII of the Rules. See also Options Order Protection and Locked/Crossed Market Plan (the "Linkage Plan").

¹¹ Specifically, the individual bids (offers) submitted within a single bulk message. Therefore, as proposed, the Price Adjust process or a Cancel Back designation, as applicable, applies to all bulk message bids and offers within a single message.

¹² The ABBO means the best bid (offer) disseminated by other exchanges.

¹³ See Rule 21.1(d)(8), which defines "Post Only Orders" as orders that are to be ranked and executed on the Exchange pursuant to Rule 21.8 (Order Display and Book Processing) or cancelled, as appropriate, without routing away to another options exchange except that the order will not remove liquidity from the EDGX Options Book. A Post Only Order that is not subject to the Price Adjust process that would lock or cross a Protected Quotation of another options exchange or the Exchange will be cancelled. Users may designate bulk messages as Post Only.

¹⁴ See Rule 21.1(d)(7), which defines "Book Only Orders" as orders that are to be ranked and executed on the Exchange pursuant to Rule 21.8 (Order Display and Book Processing) or cancelled, as appropriate, without routing away to another options exchange. A Book Only Order will be subject to the Price Adjust process unless a User has entered instructions not to use such process. Users may designate bulk messages as Book Only.

¹⁵ See *supra* note 10.

¹⁶ Pursuant to the current Rules, a bulk message must be designated as Post Only or Book Only. Additionally, because bulk messages must include bids and offers and may not be market orders, all bulk messages are limit orders. See Rules 16.1(a)(4) and 21.1(d)(5).

⁵ See Rule 21.1(j)(3).

⁶ The "System" is the automated system for order execution and trade reporting owned and operated by the Exchange. See Rule 21.1(a).

⁷ The Exchange notes that market orders will not be subject to the price adjust process given that they execute immediately at the best price, therefore, they will not lock or cross the market.

⁸ An AON order is either a market or a limit order to be executed in their entirety or not at all. See Rule 21.1(d)(4).

⁹ In the EDGX Rules, the term "rank" means that an order will be prioritized and eligible for execution at its ranked price for purposes of allocation if an execution were to occur at that price. For an AON order "ranked" at a price, it would be prioritized last at that price.

additional opportunities for execution and price improvement, as well as additional flexibility and control over their submission of bulk messages. The Exchange notes that the System currently will not allow a User to submit bulk messages as AON orders. Moreover, the Exchange notes that AON orders are not displayed on the Book,¹⁷ therefore, they do not contribute to displayed liquidity, which is inconsistent with the primary purpose of bulk message functionality to encourage liquidity and trading through quoting behavior on the Exchange. The Exchange also notes that an AON order's size contingency (executed in its entirety or not at all) provides it with few opportunities for execution, which is also inconsistent with the purpose of bulk messages. The Exchange now proposes to explicitly state in Rule 21.1(d)(4) that a User may not designate bulk messages as AON orders.¹⁸

Additionally, the Exchange proposes to explicitly state under Rule 21.1(i)(1) that a User may enter instructions for an order (including bulk messages) not to be subject to the Price Adjust process. The ability for Users not to subject orders to the Price Adjust process (and Cancel Back) currently exists for a User's orders, including Book Only and Post Only orders,¹⁹ that are not otherwise subject to limitations under the Rules. The Exchange is now proposing to make this election explicit under the Price Adjust provision and applicable to a User's orders and bulk messages. The proposed opt-out election is based on the corresponding Price Adjust process under Rule 6.12 of the Exchange's affiliated exchange, Cboe C2 Exchange, Inc. ("C2").²⁰ In line with this proposed change, the Exchange now proposes to codify the existing Cancel Back instruction (proposed Rule 21.1(l)) that is substantially similar to that of C2's Cancel Back provision under C2 Rule 6.10(c) for Users that do not wish for their orders or bulk messages to be subject to the Price Adjust process. As proposed, a Cancel Back order is an order (including bulk messages) a User designates to not be subject to the Price Adjust Process pursuant to Rule 21.1(i) that the System cancels or rejects (immediately at the time the System receives the order or upon return to the System after being

routed away) if displaying the order on the Book would create a violation of Rule 27.3 (Locked and Crossed Markets), or if the order cannot otherwise be executed or displayed in the EDGX Options Book at its limit price. As stated, a Cancel Back designation for a bulk message applies to all bulk message bids and offers within a single message. The System executes a Book Only—Cancel Back order against resting orders, and cancels or rejects a Post Only—Cancel Back order, that locks or crosses the opposite side of the BBO. The Exchange notes that pursuant to the Book Only instruction, an order or bulk message may not route away to another Exchange. Therefore, if an incoming Book Only order or bulk message bid or offer designated as Cancel Back locked or crossed an away market (*i.e.* the ABBO), the System would execute it to the extent it could against contra-side interest on the Exchange at prices the same as or better than the ABBO in accordance with the linkage rules.²¹ The System would then cancel it to prevent a violation of Rule 27.3 of the intermarket linkage rules. The Exchange also notes that pursuant to the Post Only instruction, an order or bulk message may not remove liquidity from the Book or route away to another Exchange. Therefore, if a Post Only order or bulk message bid or offer designated as Cancel Back locked or crossed the best contra-side interest on the Exchange (*i.e.* the BBO) or the ABBO, the System would cancel it to prevent it from executing against resting interest on the Exchange and to prevent a violation of Rule 27.3 of the intermarket linkage rules.

Pursuant to the proposed rule change described above, all bulk message bids and offers would now be subject to the Price Adjust process, if not otherwise designated as Cancel Back, if they lock or cross a Protected Quotation of another options exchange or the Exchange, and rest in the EDGX Options Book pursuant to the process, thus avoiding display of a locked or crossed market in accordance with the linkage rules.²² Therefore, the Exchange now proposes to remove Rules 21.1(j)(3)(A)(iv) and 21.1(j)(3)(A)(v) (and amend the subsequent lettering as a result) because Post Only and Book Only bulk messages will now be included in the Price Adjust process, the handling of which would now be consistent with the current order handling of Post Only and Book Only

orders under the Price Adjust process.²³ The Exchange also notes that all bulk message bids and offers designated as Cancel Back pursuant to proposed Rule 21.1(l), and thus designated to not be subject to the Price Adjust process, would be handled in the same manner as they are today pursuant to current subparagraphs (j)(3)(A)(iv) and (j)(3)(A)(v) (which the Exchange proposes to delete).²⁴

The Exchange notes that allowing bulk message bids and offers to be subject to a repricing process is consistent with the handling of similar order (and quote) types on other exchanges.²⁵ A similar repricing (display-price sliding) process for bulk messages currently exists under Rule 21.1(h)(1) of the Exchange's affiliated exchange, Cboe BZX Exchange, Inc. ("BZX Options"). The Exchange also notes that other exchanges subject orders (quotes), including quotes similar to Post Only and Book Only bulk messages, to a repricing process like the Price Adjust process. For example, NYSE Arca, Inc. ("Arca") recently adopted order types called the Market Maker Add Liquidity Only quotation ("MMALO"), which like a Post Only instruction may not remove liquidity from the Exchange, and the Market Maker Repricing quotation ("MMRP").²⁶ Pursuant to Arca's repricing process, if these quotes would not be able to trade upon entry (for example, because the MMALO would take liquidity or display at a price that locks or crosses any interest on the Exchange or the NBBO), it would be displayed at one minimum price variation below (above) such sell (buy) interest.

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.²⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section

²³ *Id.*

²⁴ Given that the proposed rule change will subject bulk messages to the Price Adjust process, and allow for a User to opt-out of the Price Adjust process and, instead, designate their bulk message bids and offers as Cancel Back, these provisions are no longer necessary.

²⁵ See Securities Exchange Act Release No. 84737 (December 6, 2018), 83 FR 63919 (December 12, 2018) (SR-NYSEArca-2018-74) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, to Amend Rules 6.62-O and 6.37A-O to Add New Order Types and Quotation Designations). See also BZX Options Rule 21.1(h)(1).

²⁶ See Arca Rule 6.37A-O(a)(3)(A) and Rule 6.37A-O(a)(3)(C).

²⁷ 15 U.S.C. 78f(b).

¹⁷ The Exchange notes that it does not disseminate bids or offers of AON orders to OPRA, as the prices of AON orders are not included in the BBO for a series.

¹⁸ See Rule 21.1(d)(4).

¹⁹ See Rule 21.1(d)(7)–(8).

²⁰ The Exchange notes that C2 is simultaneously proposing to include bulk messages in its Price Adjust and Cancel Back processes.

²¹ See *supra* note 10.

²² *Id.*

6(b)(5)²⁸ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed rule change subjecting bulk messages to the Price Adjust process will remove impediments to and perfect the mechanism of a free and open market because it provides Users with the flexibility to apply to bulk messages the same functionality they may apply to their orders. The Exchange believes that repricing individual bids and offers within a single bulk message for Users (that do not opt-out of the Price Adjust process), as opposed to automatically rejecting messages that lock or cross protected quotes when posted to the EDGX Options Book, will permit Users to use bulk messages to respond to continuously changing market conditions in a more efficient manner, as well as provide additional opportunity for execution and price improvement. The proposed repricing of bulk messages prevents the display of a locked or crossed market and is consistent with the Linkage Plan,³⁰ thereby perfecting the mechanism of a free and open market and national market system and protecting investors.

The Exchange also believes that by subjecting bulk message bids and offers to the Price Adjust process instead of cancelling or rejecting them under certain circumstances, will give Users greater flexibility and control over the circumstances under which their orders are able to interact with contra side-interest on the Exchange. The Exchange believes this may increase the opportunities for execution at multiple price points and encourage the provision of more liquidity to the market, and therefore believes that it is reasonably designed to facilitate the mechanism of price discovery.

The Exchange notes that the options markets are quote driven markets and thus dependent on liquidity providers, which are most commonly registered market makers but also other Users, such as professional traders, for liquidity and price discovery. The Exchange believes that subjecting bulk messages to the Price Adjust process will provide liquidity providers with greater flexibility with respect to their submission of bulk messages, the primary purpose of which is to provide liquidity to the market. The Exchange believes that the reduction in the number of rejected bulk message bids and offers will promote efficacy in bulk messaging and may encourage the provision of more liquidity. This may result in more trading opportunities and tighter spreads and contribute to price discovery. As a result, this proposed change intends to improve overall market quality and enhance competition on the Exchange to the benefit of all investors.

The Exchange believes that allowing for a User to enter instructions for an order or bulk message not to be subject to the Price Adjust process under Rule 21.1(i)(1), and rather designate an order or bulk message as Cancel Back under proposed Rule 21.1(l), serves to remove impediments to and perfect the mechanism of a free and open market and a national market system because this change provides Users with additional flexibility regarding how they want the System to handle their orders and bulk messages. The Exchange also notes that permitting Users to elect that their orders and/or bulk messages not be subject to the Price Adjust process, and instead treated as Cancel Back orders, is an additional way to ensure compliance with the linkage rules,³¹ thereby protecting investors and the public interest. Additionally, this change is consistent with the Price Adjust and Cancel Back processes language under Rule 6.10 and Rule 6.12 of the Exchange's affiliated exchange, C2.³² The Exchange believes that mirroring the corresponding C2 rule language will provide better understanding for Users participating across the affiliated exchanges.

Lastly, by amending Rule 21.1(d)(4) for AON orders to state that such orders may not be bulk messages, a System functionality currently in place, the Exchange believes the proposed rule change will remove impediments to the mechanism of a free and open market and protect investors by providing investors with rules that accurately

reflect functionality currently unavailable for bulk messages.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe 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, as the proposed application of the Price Adjust process and opt-out instructions to bulk messages, along with the Cancel Back process to both orders and bulk messages, will be available to all applicable Users (e.g. Market Makers may submit Book Only bulk messages, therefore, the option to apply the Price Adjust process to Book Only bulk messages is available to all Market Makers). While bulk messages will by default be subject to the Price Adjust process, all Users may opt-out of that process for bulk messages by designating their bulk messages (and orders) as Cancel Back, thus, allowing Users the choice to continue to have their bulk messages be handled in the same manner they are today. The Exchange also notes that the Price Adjust process (including opt-out instructions) are already available to all Users for orders, including Post Only and Book Only orders, and will apply to bulk messages in the same manner as they apply to orders.

The Exchange does not believe 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 it will provide Users with bulk message repricing functionality and opt-out provisions that are similar to other order and quote repricing and opt-out provisions available on other exchanges. The Exchange believes the proposed functionality will permit the Exchange to operate on an even playing field relative to other exchanges that have similar functionality.

As discussed above, the options markets are quote driven markets and thus dependent on various Users as liquidity providers and for price discovery. The Exchange believes the proposed amendment to subject bulk messages to the Price Adjust process will provide liquidity providers with additional flexibility and control over interactions of their individual bids and offers within a bulk message with contra-side liquidity, as well as additional opportunity for execution at

²⁸ 15 U.S.C. 78f(b)(5).

²⁹ *Id.*

³⁰ See *supra* note 10.

³¹ *Id.*

³² See also *supra* note 20.

multiple price points and price improvement. This may encourage the provision of more liquidity, which may result in more trading opportunities and tighter spreads, and contribute to price discovery. This may improve overall market quality and enhance competition on the Exchange, to the benefit of all investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act³³ and Rule 19b-4(f)(6)³⁴ thereunder.³⁵

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeEDGX-2019-034 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CboeEDGX-2019-034. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeEDGX-2019-034 and should be submitted on or before July 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁶

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019-12658 Filed 6-14-19; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-86087; File No. SR-NASDAQ-2019-050]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delay Implementation of the MIDP Routing Option

June 11, 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 3, 2019, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delay implementation of the MIDP routing option until the third quarter of 2019.

The text of the proposed rule change is available on the Exchange's website at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to delay implementation of the MIDP routing option until the third quarter of 2019.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³³ 15 U.S.C. 78s(b)(3)(A).

³⁴ 17 CFR 240.19b-4(f)(6).

³⁵ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

³⁶ 17 CFR 200.30-3(a)(12).

MIDP is a new order routing option under Nasdaq Rule 4758(a)(1)(A), which will allow members to seek midpoint liquidity on Nasdaq and other markets on the Nasdaq system routing table. On May 20, 2019, the Commission approved MIDP, noting that the Exchange planned to implement the new routing option in the second quarter of 2019 and would provide at least 30 days notice.³ The Exchange is proposing to delay implementation of MIDP until the third quarter of 2019. Currently, the Exchange is reducing the number of changes to the System in preparation for an upcoming “quadruple witching” day⁴ and the Russell Rebalance, two significant market events occurring in June 2019. Accordingly, the Exchange believes that it would be in the best interest of the markets if MIDP was implemented after these events, in the third quarter 2019. As originally proposed by the Exchange, it will provide at least 30 days notice to market participants of the implementation date.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁶ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by allowing the Exchange to implement the approved changes after two significant market events. The Exchange believes that the short delay will allow the Exchange to limit the number of changes implemented to its systems prior to these events, reducing any risk to the operation of the system by implementation of changes thereto, in turn, protecting investors.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The brief delay described herein is proposed solely in the interest of protecting the

markets and investors, and is not being proposed for any competitive reasons. Accordingly, the delay does not implicate competition whatsoever.

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) of the Act⁷ and Rule 19b-4(f)(6) thereunder.⁸

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act⁹ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁰ 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 so that the Exchange may delay implementation of MIDP and provide public notice thereof at the earliest possible time. The Exchange states that waiver would thereby avoid any market participant confusion that may be caused by the Exchange not implementing the proposal in the second quarter of 2019. 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.¹¹

At any time within 60 days of the filing of the proposed rule change, the

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ 17 CFR 240.19b-4(f)(6)(iii).

¹¹ 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).

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-NASDAQ-2019-050 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-NASDAQ-2019-050. 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

³ See Securities Exchange Act Release No. 85892 (May 20, 2019), 84 FR 24191 (May 24, 2019) (SR-NASDAQ-2019-004).

⁴ A “quadruple witching” day occurs when stock options, index options, index futures, and single stock futures all expire on the same day. This will occur next on June 21, 2019.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2019–050 and should be submitted on or before July 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Eduardo A. Aleman,
Deputy Secretary.

[FR Doc. 2019–12659 Filed 6–14–19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86084; File No. SR–NYSE–2019–33]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.31 Relating to the Yielding Modifier

June 11, 2019.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b–4 thereunder,³ notice is hereby given that on June 4, 2019, New York Stock Exchange LLC (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.31 relating to the Yielding Modifier. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text

of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7.31(i)(5) relating to the Yielding Modifier. The Exchange recently amended its Pillar platform trading rules to provide for the Yielding Modifier.⁴ Separately, before that proposed rule change was approved, the Exchange filed to amend Rule 7.31 to make the Minimum Trade Size (“MTS”) Modifier available for additional non-displayed orders.⁵ The Exchange has announced that the changes described in both the Yielding Filing and the MTS Filing will be implemented on the same day, currently scheduled for June 17, 2019.⁶

Because the Yielding Filing was filed before the MTS Filing, then-proposed Rule 7.31(i)(5) did not reflect the change described in the MTS Filing to extend the availability of the MTS Modifier to additional non-displayed order types. The Exchange now proposes to update a reference to the MTS Modifier in Rule 7.31(i)(5)(B)(i) to reflect the changes described in the MTS Filing.

Specifically, Rule 7.31(i)(5)(B)(i) describes the circumstances when an Aggressing Yielding Order with a limit price equal to the limit price of a same-side resting order could trigger such resting order to become an Aggressing Order. Two exceptions are if the contra-side resting order is either an MPL–ALO Order or an MPL Order with an MTS Modifier.⁷ As described in the Yielding

⁴ See Securities Exchange Act Release No. 85158 (February 15, 2019), 84 FR 5794 (February 22, 2019) (SR–NYSE–2018–52) (Approval Order) (“Yielding Filing”).

⁵ See Securities Exchange Act Release No. 85071 (February 7, 2019), 84 FR 3843 (February 13, 2019) (SR–NYSE–2019–01) (Notice of filing and immediate effectiveness) (“MTS Filing”). Prior to this proposed rule change, the MTS Modifier was available only for Limit IOC Orders and MPL Orders.

⁶ See Trader Update dated April 16, 2019, available here: https://www.nyse.com/publicdocs/nyse/markets/nyse/Revised_Pillar_Migration_Timeline.pdf.

⁷ Rule 7.31(i)(5)(B) and subparagraph (i) provide that “An Aggressing Yielding Order to buy (sell) with a limit price equal to the limit price of a resting order to buy (sell) will either: (i) Trigger such resting order to become an Aggressing Order, unless the order to sell (buy) buy is an MPL ALO or MPL Order with an MTS Modifier, in which case neither the Yielding Order nor the same-side resting order will trade” (emphasis added).

Filing, a contra-side resting MPL Order with an MTS Modifier may not be eligible to trade at the price of the Yielding Order, which is why neither the Aggressing Yielding Order nor the resting order on the same side as the Yielding Order will trade.⁸ Because the MTS Modifier will be available to additional non-displayed order types and because any order with an MTS Modifier would be subject to the same conditions as described in the Yielding Filing for MPL Orders with an MTS Modifier, the Exchange proposes to amend Rule 7.31(i)(5)(B)(i) to replace the term “MPL Order with an MTS Modifier” with the term “order with an MTS Modifier.”

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),⁹ in general, and furthers the objectives of Section 6(b)(5),¹⁰ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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.

The Exchange believes that the proposed rule change to amend Rule 7.31(i)(5)(B)(i) would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would update the rule relating to the Yielding Modifier to reflect changes made to the MTS Modifier as described in the MTS Filing. The rationale for referencing MPL Orders with an MTS Modifier in Rule 7.31(i)(5)(B)(i), as described in the Yielding Filing, is equally applicable to any order with an MTS Modifier: Because of the MTS, such order may not be eligible to trade at the price of the Yielding Order. Accordingly, to ensure that all orders with an MTS Modifier would be treated similarly under these circumstances, the Exchange proposes to amend Rule 7.31(i)(5)(B)(i) to replace the term “MTS [sic] Order with an MTS Modifier” with the term “order with an MTS Modifier.”

⁸ See Securities Exchange Act Release No. 84806 (December 12, 2018), 83 FR 64913, 64919 (December 18, 2018) (SR–NYSE–2018–52) (Notice of Filing of Yielding Filing).

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹² 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

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 designed to address any competitive issues, but rather, would update the rule relating to Yielding Orders to reflect changes to the MTS Modifier as described in the MTS Filing.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6)¹² thereunder because the proposal does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.¹³

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)¹⁴ 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 requested that the Commission waive the 30-day operative delay period. The Exchange states that the proposed rule change would update the rule relating to the Yielding Modifier to reflect changes already made to the MTS Modifier as described in the MTS Filing. The Commission believes that waiver of the 30-day operative delay period is consistent

with the protection of investors and the public interest and designates the proposed rule change operative upon filing.¹⁵

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.¹⁶ 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-NYSE-2019-33 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-NYSE-2019-33. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and

printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2019-33 and should be submitted on or before July 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019-12656 Filed 6-14-19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-86086; File No. SR-CboeBZX-2019-052]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Allow the Exchange To Determine the Availability of Order Types and Times-in-Force

June 11, 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 3, 2019, Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ 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.

¹⁷ 17 CFR 200.30-3(a)(12).

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).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6).

¹³ In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁴ 17 CFR 240.19b-4(f)(6)(iii).

¹⁵ For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁶ 15 U.S.C. 78s(b)(3)(C).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the "Exchange" or "BZX Options") proposes to allow the Exchange to determine the availability of order types and times-in-force. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 21.1 to provide that the Exchange may determine which order types and times-in-force are available on a class or system basis. This proposed change is based on corresponding Rule 21.1 of the Exchange's affiliated exchange, Cboe EDGX Exchange, Inc. ("EDGX Options").⁵

Current Rule 21.1(d) defines an order type on the Exchange as the unique processing prescribed for designated orders, subject to restrictions within the rules. Current Rule 21.1(f) defines time-in-force as the period of time that the System will hold an order, subject to the restrictions within the rules.

The Exchange now proposes to amend Rules 21.1(d) and 21.1(f) to add that unless otherwise specified in the Rules or the context indicates otherwise, the

Exchange will determine which order types and time-in-force, respectively, are available on a class or system basis. The purpose of this rule change is to provide the Exchange with appropriate flexibility to address different trading characteristics, market models, and investor base of each class. This provision is consistent with Rules 21.1(d) and 21.1(f) of EDGX Options, as well as the rules of the Exchange's other affiliated exchanges, Cboe C2 Exchange, Inc. ("C2") Rule 6.10(a) and Cboe Exchange, Inc. ("Cboe Options") Rule 6.53, each of which provides these exchanges with the same flexibility. Overall, the Exchange believes that providing the same rules across the Exchange and its affiliates regarding the availability of certain order types and times-in-force will reduce confusion for BZX Options Members that participate across the multiple affiliated exchanges, particularly during the fourth quarter of 2019 when Cboe Options will migrate its technology to the same trading platform used by the Exchange, EDGX Options, and C2.

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.⁶ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁷ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁸ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed rule change to provide the Exchange with the flexibility to determine the availability of order types and times-in-force on a class and system basis will remove impediments to and perfect the mechanism of a free and

open market and a national market system by allowing the Exchange to address the specific characteristics of different classes and different market conditions. The Exchange believes that this serves to protect investors by ensuring that the appropriate order types and times-in-force are tailored to the different class characteristics and by mitigating risks associated with changing market conditions.

The Exchange also believes that providing consistency between the Exchange rules and that of its affiliates removes impediments to and perfects the mechanism of a free and open market and promotes just and equitable principles of trade, as well as fosters cooperation and coordination with persons engaged in facilitating transactions in securities. The proposed rule change provides the Exchange with the same flexibility currently provided for within its affiliates' rules. The Exchange believes that this consistency promotes participants' understanding of the rules across the multiple affiliated exchanges and promotes a fair and orderly national options market system. The Exchange also notes that the proposed change is reasonable and does not affect investor protection because the proposed change does not present any novel or unique issues, as it has previously been filed with the Commission.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition, as the proposed rule change will apply in the same manner to all order types and/or times-in-force, as the Exchange determines, from all Members. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition because the proposed change provides the Exchange with substantially the same flexibility as the rules of other exchanges.⁹ Therefore, the Exchange believes that the proposed rule change will allow it to make determinations regarding availability of orders that will enable it to remain competitive as markets and market conditions evolve.

⁵ See Securities Exchange Act Release No. 85797 (May 7, 2019), 84 FR 20920 (May 13, 2019) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amend the Exchange's Opening Process and add a Global Trading Hours Session for XSP Options) (SR-CboeEDGX-2019-027).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ *Id.*

⁹ See EDGX Options Rule 21.1(d) and (f); C2 Rule 6.10(a); and Cboe Options Rule 6.53. See also Miami International Securities Exchange, LLC ("MIAX") Rule 516.

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)(iii) of the Act¹⁰ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹¹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeBZX-2019-052 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-CboeBZX-2019-052. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeBZX-2019-052 and should be submitted on or before July 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Eduardo A. Aleman,
Deputy Secretary.

[FR Doc. 2019-12660 Filed 6-14-19; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.
ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA) requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public

that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

DATES: Submit comments on or before July 17, 2019.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer*, Curtis Rich, Small Business Administration, 409 3rd Street, SW, 5th Floor, Washington, DC 20416; and *SBA Desk Officer*, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205-7030, curtis.rich@sba.gov.

Copies: A copy of the Form OMB 83-1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

SUPPLEMENTARY INFORMATION: The collected information is submitted by small business concerns seeking certification as a qualified HUBZone small business. SBA uses the information to verify a concern's eligibility for the HUBZone programs, to compiled a database of qualified small business concerns, as well as for the re-certification and examination of certified HUBZone small business concerns. Finally SBA uses the information to prepare reports for the Executive and legislative branches.

Solicitation of Public Comments

Title: "HUBZone Program Electronic Application, Re-certification and Program Examination".

Description of Respondents: Small business concerns seeking certification as a qualified HUBZone.

Form Number: SBA Form 2103.

Estimated Annual Responses: 3,189.

Estimated Annual Hour Burden: 7,189.

Curtis Rich,
Management Analyst.

[FR Doc. 2019-12715 Filed 6-14-19; 8:45 am]

BILLING CODE 8026-03-P

SMALL BUSINESS ADMINISTRATION

Office of Economic Opportunity—Microloan Program Survey

AGENCY: Small Business Administration.

ACTION: Notice of availability of SBA Microloan Program survey.

SUMMARY: The John S. McCain National Defense Authorization Act for Fiscal

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹² 17 CFR 200.30-3(a)(12).

Year 2019 (NDAA 2019) requires the Small Business Administration (SBA) to conduct a study of microenterprise participation. To meet this requirement, SBA has created a survey to be completed by SBA Microloan Intermediaries (Intermediaries) and entities that are eligible to become Intermediaries, but do not currently participate.

DATES: The survey will be available upon publication for approximately 45 days.

ADDRESSES: The survey will be available at the following URL: <https://www.surveymonkey.com/r/7MRD3SM>.

All submissions will become part of the public record and subject to public disclosure. Sensitive information and information that you consider to be Confidential Business Information or otherwise protected should not be included. Submissions will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Daniel Upham, Office of Economic Opportunity, at (202) 205-7001.

SUPPLEMENTARY INFORMATION:

I. Background

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) authorizes the SBA to make direct loans to eligible intermediaries for the purpose of providing loans of up to \$50,000 to startup, newly established, or growing small business concerns for working capital or the acquisition of materials, supplies, or equipment. Section 7(m) also authorizes SBA to make grants to these intermediaries to provide small business borrowers with technical assistance. Eligible intermediaries include organizations that have at least one year of experience making microloans and providing technical assistance to borrowers and are one of the following entity types: (1) Private, nonprofit community development corporations, or other non-profit entities; (2) consortiums of private, nonprofit community development corporations or other nonprofit organizations; (3) quasi-governmental economic development entities, other than a state, county, municipal government or any agency thereof; and (4) agencies of, or nonprofit entities established by Native American Tribal Governments.

II. Survey

The NDAA 2019 requires SBA to study the level of participation by intermediaries that are eligible to participate in the Agency's Microloan Program. As required by law, this

survey has been approved by the Office of Management and Budget under Control Number 3245-XXXX. Based on information from the survey responses, SBA expects to deliver a report to Congress that includes: (1) Information on the operations of current Microloan Intermediaries and entities that are eligible to participate in the Microloan program but that do not participate; (2) the reasons why eligible entities choose not to participate in the Microloan program; (3) recommendations on how to encourage increased participation in the Microloan program by eligible entities; and (4) recommendations on how to decrease the costs associated with participation in the Microloan program for Intermediaries. Responses to this survey are voluntary, but strongly encouraged in order to gain valuable insights and improve the Microloan program in the future.

(Authority: Sec. 853(c), Pub. L.115-232.)

Dated: June 11, 2019.

Curtis Rich,

Management Analyst.

[FR Doc. 2019-12699 Filed 6-14-19; 8:45 am]

BILLING CODE 4

DEPARTMENT OF STATE

[Public Notice: 10798]

U.S. Department of State Advisory Committee on Private International Law (ACPIL): Public Meeting on Arbitration and Conciliation

The Office of the Assistant Legal Adviser for Private International Law, Department of State, gives notice of a public meeting to discuss possible topics for future work related to arbitration or conciliation in the United Nations Commission on International Trade Law (UNCITRAL). The public meeting will take place on Tuesday, June 25, 2019, from 10:00 a.m. until 12:30 p.m. EDT. This is not a meeting of the full Advisory Committee.

UNCITRAL's Working Group II (Dispute Settlement) is currently working on the development of an international framework for expedited arbitration. The purpose of this public meeting is to obtain the views of concerned stakeholders on topics related to the characteristics of expedited arbitration, including how expedited procedures may affect the selection of arbitrators, relevant timelines, procedural and evidentiary matters and issuance of an award. Concerned stakeholders may also provide views on whether the project should also address emergency

arbitrators and adjudication and early dismissal procedures, or be tailored for specific sectors that might benefit from expedited arbitration procedures. The discussion will draw on UNCITRAL Working Group II's report of its 69th session, held in February 2019 (Doc. No. A/CN.9/969) (available at: <https://undocs.org/en/A/CN.9/969>).

Time and Place: The meeting will take place on June 25, 2019, from 10:00 a.m. until 12:30 p.m. via a teleconference. Those who cannot participate but wish to comment are welcome to do so by email to Karin Kizer at KizerKL@state.gov.

Public Participation: This meeting is open to the public. If you would like to participate by telephone, please email pil@state.gov to obtain the call-in number and other information.

Michael S. Coffee,

Attorney-Adviser, Office of Private International Law, Office of Legal Adviser, Department of State.

[FR Doc. 2019-12716 Filed 6-14-19; 8:45 am]

BILLING CODE 4710-08-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2019-0264]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewal of an Information Collection: Automatic Dependent Surveillance-Broadcast (ADS-B) Rebate System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the FAA invites public comments about its intention to request Office of Management and Budget (OMB) approval for a renewal of an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 12, 2019. The FAA has launched a rebate program to emphasize the urgent need for pilots to comply with Automatic Dependent Surveillance Broadcast (ADS-B) Out requirements ahead of the January 1, 2020, compliance deadline. This program is defraying costs associated with the ADS-B equipment and installation for eligible general aviation (GA) aircraft, and helps ensure general aviation aircraft with ADS-B Out equipment.

DATES: Written comments should be submitted by July 17, 2019.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to oir_submission@omb.eop.gov, or faxed to (202) 395-6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gayle Thornton by email at: Gayle.Thornton@faa.gov; phone: 202-267-7344.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120-0769.

Title: Automatic Dependent Surveillance-Broadcast (ADS-B) Rebate System.

Form Numbers: Information is collected via a website specific to the ADS-B Rebate program.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 12, 2019 (84 FR 15036).

On May 21, 2010, the FAA issued a final rule requiring Automatic Dependence Surveillance-Broadcast (ADS-B) Out avionics on aircraft operating in Classes A, B, and C airspace, as well as certain other classes of airspace within the National Airspace System (NAS), no later than January 1, 2020 (75 FR 30160). ADS-B Out equipage is a critical step in achieving the benefits of NextGen, in that it enhances aircraft surveillance with satellite-based precision. When properly equipped with ADS-B, both pilots and controllers can see the same real-time displays of air traffic, and pilots will be

able to receive air traffic services in places where not previously available.

To meet this deadline for compliance, the FAA estimated that as many as 160,000 general aviation aircraft would need to be equipped with ADS-B Out. In developing the ADS-B Out final rule, the FAA assumed that these aircraft owners would begin equipping new aircraft with ADS-B equipment in 2012, and begin retrofitting the existing aircraft in 2013, to minimize costs associated with retrofitting outside of the aircraft's heavy maintenance cycle. In any given year, avionics installers are capable of completing approximately 35,000-50,000 installations. In order to guarantee that general aviation aircraft that will operate in ADS-B airspace are equipped by the deadline, approximately 23,000 aircraft would have needed to equip each year beginning in early 2013. This would have ensured there would be a balance between the expected demand for avionics installations and the capacity of avionics installers. Owners of general aviation aircraft who are particularly price sensitive are postponing their installations. This trend demonstrates that there is a near-term need to accelerate equipage, to ensure that pilots, manufacturers, and retail facilities have adequate time and capacity to equip aircraft with ADS-B Out avionics. This rebate provided an incentive for early retrofitting and emphasized the urgent need for GA pilots compliance with ADS-B Out requirements.

Section 221 of the FAA Modernization and Reform Act of 2012 provided the FAA with the authority to establish an incentive program for equipping general aviation and commercial aircraft with communications, surveillance, navigation, and other avionics equipment. The FAA established the ADS-B Rebate Program to address the rate of general aviation equipage by incentivizing aircraft owners who are affected by the ADS-B Out requirements and are the most price sensitive to the cost of avionics and the associated installation. The ADS-B Rebate Program provides a one-time \$500 rebate to an aircraft owner to defray some of the cost of an ADS-B Out system meeting the program eligibility requirements. The rebates are available on a first come first served basis.

The FAA, with input from industry partners (Aircraft Electronics Association, Aircraft Owners and Pilots Association, and General Aircraft Manufacturers Association), designed this rebate program targeting specific eligibility requirements for avionics,

aircraft types, and aircraft owners. The eligibility requirements are as follows:

Eligible Avionics—Technical Standard Order (TSO)-certified Version 2 ADS-B Out system, purchased on or after June 8, 2016. Such equipment must have a TSO marking for TSO-C154c, or TSO-C166b, or both. Eligible ADS-B Out system equipment may have an embedded position source compliant with one of the following TSOs: TSO-C-145c (or subsequent versions), TSO-C146c (or subsequent versions), or may be connected to a separate position source compliant with TSO-C-145c (or subsequent versions) or TSO-C146c (or subsequent versions). Any separate position source must comply with the guidance published in FAA Advisory Circular (AC) 20-165B. ADS-B In/Out systems compliant with TSO-C154c, TSO-C166b, or both, are also eligible.

Eligible Aircraft—Only U.S.-registered, fixed-wing single-engine piston aircraft first registered before January 1, 2016 are eligible for the program. This eligibility is determined via the FAA Civil Aircraft Registry. Program eligibility also requires permanent installation of new avionics equipment in a single aircraft in compliance with applicable FAA regulations and guidance material.

Aircraft Owner—Program eligibility is limited to one rebate per aircraft owner. An aircraft owner means either a single individual owner or any owning entity (any legal ownership entity including but not limited to an LLC, corporation, partnership or joint venture) identified as the owner of the eligible aircraft in the FAA Civil Aviation Registry.

Exclusions—All aircraft for which FAA has already paid or previously committed to upgrade to meet the ADS-B Out mandate. Software upgrades to existing equipment are not eligible. Aircraft that already have a Version 2 ADS-B Out system prior to the launch of the data collection system are not eligible. New aircraft produced after January 1, 2016, are not eligible.

For reimbursement under this program, the FAA Civil Aircraft Registry information regarding ownership is controlling. The rebate program uses the publically available database to determine eligibility requirements based on the aircraft information. The aircraft owner is responsible for ensuring that the FAA Civil Aircraft Registry information is accurate before a claim for the rebate is submitted; rebates will only be mailed to the registered owner and address as indicated in the Civil Aircraft Registry.

To request a rebate, the applicant must provide via the program website a valid email address for official

correspondence and notifications and aircraft-specific information such as the aircraft registration number, TSO certified equipment purchased, and scheduled installation date. Once the information is submitted, the FAA will validate eligibility for the program with the official records regarding aircraft ownership contained in the publically available Civil Aircraft Registry. Additionally, anyone requesting a rebate will need to accept legal notices electronically by acknowledging their agreement and acceptance and providing the name of the person submitting the information on the individual web application.

Through the ADS-B Rebate Program, aircraft owners are permitted to reserve a rebate, validate their installation, and then claim their rebate through the ADS-B Rebate Program website. The program steps and timeline requirements are as follows:

[1] *Decide*: The aircraft owner arranges for purchase and schedules installation of TSO-certified avionics for an eligible aircraft.

[2] *Reserve*: Before avionics installation occurs, the aircraft owner must go to the ADS-B Rebate Program website to submit information for a rebate reservation. Upon successful submission, the system will generate an email with a Rebate Reservation Code. During the rebate reservation process, the eligible aircraft's information is validated against the FAA Civil Aircraft Registry, including ownership information. If there are discrepancies, the aircraft owner may continue with the reservation process; but before a valid Incentive Code can be obtained in step [5], the aircraft owner must ensure that the FAA Civil Aircraft Registry data for their eligible aircraft is corrected.

[3] *Install*: TSO-certified ADS-B avionics are installed in the eligible aircraft.

[4] *Fly & Validate*: Only after the prior steps are completed, the eligible aircraft must be flown in the airspace defined in 14 CFR 91.225 for at least 30 minutes, with at least 10 aggregate minutes of maneuvering flight, per the guidance in AC 20-165B *regulations_policies/advisory_circulars/index.cfm/go/document.information/documentID/1028666*, sections 4.3.2 and 4.3.2.3-4.3.2.6 for Part 23 aircraft. After flight, the ADS-B data is used to generate a Public Compliance Report (PCR) and General Aviation Incentive Requirements Status (GAIRS) Report, which is how the performance of the eligible aircraft's ADS-B installation is validated. Note that it may be necessary to repeat this step more than once, until the GAIRS Report indicates PASS for all

fields and provides an Incentive Code in the Rebate Status section. Once proper installation and operation of the ADS-B is validated the FAA will notify the applicant using the email address provided at the time of rebate request.

[5] *Claim*: Within 60 days of the scheduled installation date, the aircraft owner gathers their Rebate Reservation Code (from step [2]) and their Incentive Code (from step [4]) and submits this information as well as their name and aircraft number via the ADS-B Rebate Program website to complete the claim for their rebate.

The FAA is seeking comments from the public regarding the information we collect for the program and how we collect it. The information provided in this notice is solely to identify and collect information from the public on the potential burden to an individual that would result from this program.

Respondents: Approximately 20,000 GA pilots.

Frequency: Information is collected only during the times the user is submitting their reservation and claiming their rebate after proof of meeting the eligibility requirements.

Estimated Average Burden per Response: Approximately 6 minutes.

Estimated Total Annual Burden: Approximately 2,000 hours.

Issued in Washington, DC, on June 12, 2019.

Ottilia McCoy,

General Engineer, NextGen Office of Collaboration and Messaging, ANG-M, Office of the Assistant Administrator for NextGen, Federal Aviation Administration.

[FR Doc. 2019-12685 Filed 6-14-19; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2019-0159]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: B4UFLY Smartphone App

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting

comments on the following collection of information was published on March 14, 2019. The collection involves the B4UFLY smartphone app that provides situational awareness of flight restrictions—including locations of airports, restricted airspace, special use airspace, and temporary flight restrictions—based on a user's current or planned flight location. In order to maintain NAS safety in proximity to airports, authorization is now required from recreational Unmanned Aircraft System (UAS) pilots to operate in controlled airspace. The data collected will assist the FAA with determining the best processes to authorize recreational UAS pilots and inform air traffic control personnel of a UAS pilot's intended flight in order to assess whether the UAS may disrupt or endanger manned air traffic.

DATES: Written comments should be submitted by June 24, 2019.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to aira_submission@omb.eop.gov, or faxed to (202) 395-6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Bonita Kay Reichert by email at: Bonnie.Reichert@faa.gov; phone: 405-875-6301.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120-0764.
Title: B4UFLY Smartphone App.

Form Numbers: There are no forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following

collection of information was published on March 14, 2019 (84 FR 9411). Public Law 112–95, Section 336 which requires model aircraft operators to notify the airport operator and air traffic control tower (if one is located at the airport) prior to operating within 5 miles of an airport. The FAA’s B4UFLY smartphone app provides situational awareness of flight restrictions—including locations of airports, restricted airspace, special use airspaces, and temporary flight restrictions—based on a user’s current or planned flight location. In order to maintain NAS safety in proximity to airports, air traffic control personnel would need certain basic information about a UAS operator’s intended flight in order to assess whether the UAS may disrupt or endanger manned air traffic. The data collected will assist the FAA with determining the best processes to authorize recreational UAS pilots and inform air traffic control personnel of a UAS pilot’s intended flight in order to assess whether the UAS may disrupt or endanger manned air traffic.

Respondents: Approximately 640,060 users total with an average usage of 100,000 users.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: Approximately 2 minutes.

Estimated Total Annual Burden: Approximately 100 minutes for light usage per user. Approximately 5 hours per user for heavier usage.

Issued in Oklahoma City, OK on May 22, 2019.

Bonita Kay Reichert,

*Project Manager, UAS Program Office
Division, Office of Information and
Technology, Enterprise Program Management
Services, AEM-210.*

[FR Doc. 2019–12706 Filed 6–14–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2017–0043]

Motorcyclist Advisory Council; Notice of Public Meeting

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice announces the second meeting of Fiscal Year 2019 of the Motorcyclist Advisory Council (MAC).

DATES: The meeting will be held from 9:00 a.m. to 1:00 p.m. ET on Tuesday, August 25, 2019.

ADDRESSES: The MAC will convene virtually, via Web conference connection. There is no physical address for the meeting.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Griffith, the Designated Federal Official, Office of Safety, 202–366–2829, (mike.griffith@dot.gov), or Ms. Guan Xu, 202–366–5892, (guan.xu@dot.gov), Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded from the **Federal Register’s** home page at: <http://www.archives.gov>; the Government Publishing Office’s database at: <https://www.gpo.gov/fdsys/>; or the specific docket page at: www.regulations.gov.

Background

Purpose of the Committee: Section 1426 of the Fixing America’s Surface Transportation Act, Public Law 114–94 required the FHWA Administrator, on behalf of the Secretary, to establish a MAC. The MAC is responsible for providing advice and making recommendations concerning infrastructure issues related to motorcyclist safety, including barrier design; road design, construction, and maintenance practices; and the architecture and implementation of intelligent transportation system technologies. On July 28, 2017, the Secretary of Transportation appointed 10 members to MAC, and 3 meetings have been held to date.

Tentative Agenda: The agenda will include a topical discussion of the infrastructure issues described above, namely: Barrier design; road design, construction, and maintenance practices; and the architecture and implementation of intelligent transportation system technologies.

Public Participation: This meeting will be open to the public. Members of the public who wish to attend are asked to send an email to MAC-FHWA@dot.gov no later than May 20, 2019, in order to receive access information for the Web conference room. The Designated Federal Official and the Chair of the Committee will conduct the meeting to facilitate the orderly conduct of business. If you would like to file a written statement with the Committee, you may do so either before or after the meeting by submitting an electronic copy of that statement to MAC-FHWA@dot.gov or the specific docket page at: www.regulations.gov. If you would like to make oral statements regarding any of

the items on the agenda, you should contact Mr. Michael Griffith at the phone number listed above or email your request to MAC-FHWA@dot.gov. You must make your request for an oral statement at least 5 business days prior to the meeting. Reasonable provisions will be made to include any such presentation on the agenda. Public comment will be limited to 3 minutes per speaker, per topic.

Services for Individuals with Disabilities: The Federal Highway Administration is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, please send an email to MAC-FHWA@dot.gov or contact Michael Griffith at 202–366–2829 by May 20, 2019.

Minutes: An electronic copy of the minutes from all meetings will be available for download within 60 days of the conclusion of the meeting at: <https://safety.fhwa.dot.gov/motorcycles/>.

Authority: Section 1426 of Pub. L. 114–94.

Issued on: June 11, 2019.

Nicole R. Nason,
*Administrator, Federal Highway
Administration.*

[FR Doc. 2019–12772 Filed 6–14–19; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Availability of Environmental Assessment for Washington, DC to Baltimore Loop Project

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of reopening of comment period.

SUMMARY: The FHWA is reopening the comment period for the Environmental Assessment (Draft) for the Washington, DC to Baltimore Loop Project, which was published on April 24, 2019. The original comment period closed on June 10, 2019. The extension is based on concern expressed by stakeholders that this closing date does not provide sufficient time to review and provide comprehensive comments on the proposal. The FHWA recognizes that others interested in commenting may have similar concerns and agrees that the comment period should be extended.

DATES: Comments must be received on or before July 17, 2019.

ADDRESSES: You may submit comments by any of the following methods:

- *Project Website:* <https://www.dcbaltimoreloop.com>. Follow the instructions for submitting comments on the website.

- *Mail:* Ms. Donna Buscemi, Maryland Department of Transportation State Highway Administration, 707 N Calvert Street, MS C-301, Baltimore, MD 21202. Please include "Washington, DC to Baltimore Loop Project" in your subject line.

Electronic copies may be downloaded from the Project website and hard copies of the Environmental Assessment (Draft) may also be viewed at the following locations, by appointment only:

- FHWA Maryland Division, George H. Fallon Federal Building, 31 Hopkins Plaza, Baltimore, MD 21201, (410) 962-4440.

- FHWA District of Columbia Division, 1200 New Jersey Avenue SE, East Building, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Buscemi, Project Sponsor Liaison, Maryland Department of Transportation State Highway Administration, Office of Planning and Preliminary Engineering, 707 N Calvert Street, MS C-301, Baltimore, MD 21202, (410) 545-8500.

Background

The Washington, DC to Baltimore Loop Project is proposed, and will be completely funded by, The Boring Company. The purpose of the proposed action is to construct an alternative, high speed option for traveling between Washington, District of Columbia, and Baltimore, Maryland. The Proposed Action consists of the construction of approximately 35.3 miles of parallel, twin underground tunnels (Main Artery Tunnels) between Washington, DC and Baltimore, MD. The proposed project would extend beneath public right-of-way of the Route 50 and Baltimore-Washington Parkway, with termini at 55 New York Avenue Northeast in Washington, DC and Oriole Park at Camden Yards, 333 Camden Street, Baltimore, MD.

Battery-powered, autonomous electric vehicles, traveling at speeds of up to 150 miles per hour, would transport passengers in the Main Artery Tunnels between the two termini. Proposed project components include: Two access points at the Washington, DC and Baltimore, MD termini; Two Main Artery Tunnels; up to 70 ventilation shafts; and 4 launch shaft sites for tunnel boring machines, at least one of which would be converted into a

maintenance terminal for autonomous electric vehicles pods.

The Environmental Assessment (Draft) evaluates the existing environmental conditions within the project area, along with the potential environmental impacts of the No Build and Build alternatives for the proposed project. On April 24th at 84 FR 17231, FHWA published a Notice of Availability for the Environmental Assessment (Draft). The original comment period for the Environmental Assessment (Draft) closes on June 10, 2019. Stakeholders have expressed concern that this closing date does not provide sufficient time to review and provide comprehensive comments on the proposal. To allow time for these stakeholders and others to submit comprehensive comments, the closing date is extended from June 10, 2019, to July 17, 2019.

Gregory Murrill,

Division Administrator, Federal Highway Administration.

[FR Doc. 2019-12766 Filed 6-14-19; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Proposed Collection; Comment Request; Grants to States for Low-Income Housing Projects in Lieu of Tax Credits

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to comment on the proposed information collections listed below, in accordance with the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before August 16, 2019.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8100, Washington, DC 20220, or email at PRA@treasury.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Sustanchia Gladden, Department of the Treasury, 1500 Pennsylvania Avenue NW, Room 1050, Washington, DC 20020; telephone number: (202) 622-8951 or to Sustanchia.Gladden@treasury.gov.

SUPPLEMENTARY INFORMATION:

Title: Grants to States for Low-Income Housing Projects in Lieu of Tax Credits.
OMB Control Number: 1505-0218.

Type of Review: Extension without change of a currently approved collection.

Description: Authorized under the American Recovery and Reinvestment Act (ARRA), hereafter Recovery Act of 2009 (Pub. L. 111-5), the Department of the Treasury is implementing several provisions of the Act, more specifically Division B—Tax, Unemployment, Health, State Fiscal Relief, and Other Provisions. Among these components is a program which requires Treasury to make payments, in lieu of a tax credit, to state housing credit agencies. State housing credit agencies use the funds to make subawards to finance the construction or acquisition and rehabilitation of qualified low-income buildings. The collection of information is necessary to properly monitor compliance with program requirements.

Form: None.

Affected Public: State and Local Governments.

Estimated Number of Respondents: 114.

Frequency of Response: Annually.
Estimated Total Number of Annual Responses: 114.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 57.

Request For Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget 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 technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: June 11, 2019.

Spencer W. Clark,
Treasury PRA Clearance Officer.

[FR Doc. 2019-12666 Filed 6-14-19; 8:45 am]

BILLING CODE 4810-25-P

DEPARTMENT OF THE TREASURY

United States Mint

Establish Pricing for 2018 United States Mint Numismatic Product

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing pricing for a new United States Mint numismatic product in accordance with the table below.

Product	Retail price
2018 American Innovation™ \$1 Reverse Proof Coin—Introductory Coin	\$9.95

FOR FURTHER INFORMATION CONTACT: Derrick Griffin, Product Manager, Sales and Marketing; United States Mint; 801 9th Street NW; Washington, DC 20220; or call 202-354-7500.

Authority: Public Law 115-197, the American Innovation \$ Coin Act.

Dated: June 11, 2019.

David J. Ryder,

Director, United States Mint.

[FR Doc. 2019-12652 Filed 6-14-19; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of Citizens Coinage Advisory Committee, Public Meeting

ACTION: Notice; public meeting.

SUMMARY: The United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for June 18, 2019.

Date: June 18, 2019.

Time: 9:30 a.m. to 12:30 p.m.

Location: 2nd Floor Conference Room A&B, United States Mint, 801 9th Street NW, Washington, DC 20220.

Subject: Review and discussion of candidate designs for the Anwar El Sadat Congressional Gold Medal, the Steve Gleason Congressional Gold Medal, and the reverse of the 2020 Basketball Hall of Fame Commemorative Coin Program.

Interested members of the public may either attend the meeting in person or dial in to listen to the meeting at (866) 564-9287/Access Code: 62956028.

Interested persons should call the CCAC HOTLINE at (202) 354-7502 for the latest update on meeting time and room location.

Any member of the public interested in submitting matters for the CCAC's

consideration is invited to submit them by email to info@ccac.gov.

The CCAC advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals; advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made; and makes recommendations with respect to the mintage level for any commemorative coin recommended.

Members of the public interested in attending the meeting in person will be admitted into the meeting room on a first-come, first-serve basis as space is limited. Conference Room A&B can accommodate up to 50 members of the public at any one time. In addition, all persons entering a United States Mint facility must adhere to building security protocol. This means they must consent to the search of their persons and objects in their possession while on government grounds and when they enter and leave the facility, and are prohibited from bringing into the facility weapons of any type, illegal drugs, drug paraphernalia, or contraband.

The United States Mint Police Officer conducting the screening will evaluate whether an item may enter into or exit from a facility based upon Federal law, Treasury policy, United States Mint Policy, and local operating procedure; and all prohibited and unauthorized items will be subject to confiscation and disposal.

FOR FURTHER INFORMATION CONTACT: Betty Birdsong, Acting United States Mint Liaison to the CCAC; 801 9th Street NW; Washington, DC 20220; or call 202-354-7200.

Authority: 31 U.S.C. 5135(b)(8)(C).

Dated: June 11, 2019.

David J. Ryder,

Director, United States Mint.

[FR Doc. 2019-12651 Filed 6-14-19; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Veterans and Community Oversight and Engagement Board, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act the Veterans and Community Oversight and

Engagement Board will meet on August 14-15, 2019 at 11301 Wilshire Boulevard, Building 500, Room 1281, Los Angeles, CA. The meeting sessions will begin and end as follows:

Date	Time
August 14, 2019 ...	8:30 a.m. to 5:30 p.m.—Pacific Standard Time (PST).
August 15, 2019 ...	8:00 a.m. to 4:30 p.m.—PST.

The meeting sessions are open to the public.

The Board was established by the West Los Angeles Leasing Act of 2016 on September 29, 2016. The purpose of the Board is to provide advice and make recommendations to the Secretary of Veterans Affairs on: Identifying the goals of the community and Veteran partnership; improving services and outcomes for Veterans, members of the Armed Forces, and the families of such Veterans and members; and on the implementation of the Draft Master Plan approved by the Secretary on January 28, 2016, and on the creation and implementation of any successor master plans.

On Wednesday, August 14, 2019, the agenda will include briefings from senior VA officials, to include comprehensive status update from the Draft Master Plan Principle Developer, on infrastructure assessment, housing metrics and reporting requirements. The Board will receive an informative briefing from the Greater Los Angeles Draft Master Plan Integrated Project Team, and from the Bureau of Land Management on the oil drilling operations being conducted on campus by Breitburn/Maverick. A public comment session will occur from 3:00 p.m. to 4:00 p.m. followed by a wrap up of Public Comment session.

On Thursday, August 15, 2019, the Board will receive additional briefings from the West L.A. Campus Police on safety and security incidents at Building 33 and across the campus. The Board's subcommittees on Outreach and Community Engagement with Services and Outcomes, and Master Plan with Services and Outcomes will meet to finalize reports on activities since the last meeting, followed by an out brief to the full Board and update on draft recommendations considered for forwarding to the SECVA. Individuals wishing to make public comments should contact Chihung Szeto at (562) 708-9959 or at Chihung.Szeto@va.gov and are requested to submit a 1-2-page summary of their comments for inclusion in the official meeting record. In the interest of time, each speaker will be held to 5-minute time limit.

Any member of the public seeking additional information should contact

Mr. Eugene W. Skinner Jr. at (202) 631-7645 or at *Eugene.Skinner@va.gov*.

Dated: June 12, 2019.

Jelessa M. Burney,
Federal Advisory Committee Management Officer.

[FR Doc. 2019-12736 Filed 6-14-19; 8:45 am]

BILLING CODE P



FEDERAL REGISTER

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Part II

Environmental Protection Agency

40 CFR Part 52

Approval of Air Quality Implementation Plans; California; South Coast Air Basin; 1-Hour and 8-Hour Ozone Nonattainment Area Requirements; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2019-0051; FRL-9994-76-Region 9]

Approval of Air Quality Implementation Plans; California; South Coast Air Basin; 1-Hour and 8-Hour Ozone Nonattainment Area Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve, or conditionally approve, all or portions of five state implementation plan (SIP) revisions submitted by the State of California to meet Clean Air Act (CAA or “the Act”) requirements for the 1979 1-hour, 1997 8-hour, and 2008 8-hour ozone national ambient air quality standards (NAAQS or “standards”) in the Los Angeles—South Coast Air Basin, California (“South Coast”) ozone nonattainment area. The five SIP revisions include the “Final 2016 Air Quality Management Plan,” the “Revised Proposed 2016 State Strategy for the State Implementation Plan,” the “2018 Updates to the California State Implementation Plan,” the “Updated Federal 1979 1-Hour Ozone Standard Attainment Demonstration,” and a local emission statement rule. In today’s action, the EPA refers to these submittals collectively as the “2016 South Coast Ozone SIP.” The 2016 South Coast Ozone SIP addresses the nonattainment area requirements for the 2008 ozone NAAQS, including the requirements for an emissions inventory, attainment demonstration, reasonable further progress, reasonably available control measures, contingency measures, among others; establishes motor vehicle emissions budgets; and updates the previously-approved control strategies and attainment demonstrations for the 1-hour ozone NAAQS and the 1997 ozone NAAQS. The EPA is proposing to approve the 2016 South Coast Ozone Plan as meeting all the applicable ozone nonattainment area requirements except for the reasonable further progress contingency measure requirement, for which the EPA is proposing conditional approval.

DATES: Written comments must arrive on or before July 17, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2019-0051 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: John Ungvarsky, Air Planning Office (AIR-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972-3963, or by email at ungvarsky.john@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. Regulatory Context

A. Ozone Standards, Area Designations, and SIPs

Ground-level ozone pollution is formed from the reaction of volatile organic compounds (VOC) and oxides of nitrogen (NO_x) in the presence of sunlight.¹ These two pollutants, referred to as ozone precursors, are emitted by many types of sources, including on-and off-road motor vehicles and engines, power plants and industrial facilities, and smaller area sources such as lawn and garden equipment and paints.

Scientific evidence indicates that adverse public health effects occur following exposure to ozone, particularly in children and adults with lung disease. Breathing air containing ozone can reduce lung function and inflame airways, which can increase respiratory symptoms and aggravate asthma or other lung diseases.²

Under section 109 of the CAA, the EPA promulgates NAAQS for pervasive air pollutants, such as ozone. The NAAQS are concentration levels that, the attainment and maintenance of which, the EPA has determined to be requisite to protect public health and welfare. In 1979, the EPA established the 1-hour ozone NAAQS of 0.12 parts per million (ppm) (referred to herein as the “1-hour ozone NAAQS”).³ Section 110 of the CAA requires states to develop and submit SIPs to implement, maintain, and enforce the NAAQS.

Under the CAA, as amended in 1977, the EPA designated all areas of the country as “nonattainment,” “attainment,” or “unclassifiable” with respect to each NAAQS, and in so doing, designated the South Coast⁴ as a nonattainment area for photochemical oxidant (later ozone).⁵ States with nonattainment areas are required to submit revisions to their SIPs that

¹ The State of California refers to reactive organic gases (ROG) rather than VOC in some of its ozone-related SIP submissions. As a practical matter, ROG and VOC refer to the same set of chemical constituents, and for the sake of simplicity, we refer to this set of gases as VOC in this proposed rule.

² “Fact Sheet—2008 Final Revisions to the National Ambient Air Quality Standards for Ozone” dated March 2008.

³ 44 FR 8202 (February 8, 1979).

⁴ The South Coast includes Orange County, the southwestern two-thirds of Los Angeles County, southwestern San Bernardino County, and western Riverside County (see 40 CFR 81.305).

⁵ 43 FR 8962 (March 3, 1978).

include a control strategy and technical analysis to demonstrate how the area will attain the NAAQS (referred to as an “attainment demonstration”), and the EPA took action on a number of related SIP revisions submitted by the California Air Resources Board (CARB) in the late 1970s and 1980s for the South Coast 1-hour ozone nonattainment area.⁶ By 1990, like many other areas throughout the country, the South Coast had not attained the 1-hour ozone NAAQS, and under the CAA Amendments of 1990, the South Coast was classified as an “Extreme” nonattainment area for the 1-hour ozone NAAQS with an attainment deadline of November 15, 2010 and was subject to additional SIP planning requirements, including a revised attainment demonstration.⁷

In the wake of the classification of the South Coast nonattainment area as Extreme for the 1-hour ozone NAAQS, CARB submitted a number of SIP revisions for the South Coast that contained attainment demonstrations for the 1-hour ozone NAAQS and other SIP elements, and that relied on a combination of mobile source control measures adopted by CARB and stationary source control measures adopted by the South Coast Air Quality Management District (SCAQMD or “District”). In connection with these submittals, the EPA took the following actions:

- 1994 South Coast Air Quality Management Plan (AQMP) and related state strategy—The EPA approved the 15 percent Rate-of-Progress (ROP) demonstration and the attainment demonstration, among other elements, for the 1-hour ozone NAAQS at 62 FR 1150 (January 8, 1997);
- 1997 AQMP, as revised in 1999—The EPA approved the revised control strategy and attainment demonstration for the 1-hour ozone NAAQS at 65 FR 18903 (April 10, 2000); and
- 2003 AQMP and related state strategy—The EPA approved certain new commitments for emissions reductions but disapproved the revised

1-hour ozone attainment demonstration at 74 FR 10176 (March 10, 2009).

Each of these plans builds upon a foundation of regulations adopted and implemented by the SCAQMD, CARB, and the EPA for stationary and mobile sources, and includes commitments for new or more stringent regulations to achieve additional emissions reductions necessary for attainment. Each subsequent ozone plan then builds upon the foundation of the new or strengthened regulations that were adopted to support the previous plan. While the emissions reduction measures implemented under these South Coast ozone plans have been successful in reducing ozone concentrations in the South Coast, the South Coast failed to attain the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2010.⁸

In 1997, the EPA revised the NAAQS for ozone, setting it at 0.08 ppm averaged over an 8-hour timeframe (referred to herein as the “1997 ozone NAAQS”) to replace the existing 1-hour ozone NAAQS of 0.12 ppm.⁹ In 2004, the EPA designated and classified the South Coast area as a “Severe-17” nonattainment area for the 1997 ozone NAAQS but later granted CARB’s request to reclassify the South Coast to Extreme nonattainment for the 1997 ozone NAAQS.¹⁰ The corresponding applicable attainment year for the 1997 ozone NAAQS in the South Coast is 2023. In response to this designation, CARB submitted the 2007 South Coast AQMP and related 2007 State Strategy, as amended in 2009 and 2011 (collectively, referred to as the “2007 South Coast Ozone SIP”) and the EPA took the following action:

- 2007 South Coast Ozone SIP—Among other elements, the EPA approved the emission inventory, reasonably available control measures demonstration, reasonable further progress demonstration, control strategy and attainment demonstration for the 1997 ozone NAAQS at 77 FR 12674 (March 1, 2012), amended at 77 FR 70707 (November 27, 2012).

The 1997 ozone NAAQS control strategy in the 2007 South Coast Ozone SIP builds upon the control strategy established under the previous 1-hour ozone plans. In connection with our approval of the South Coast attainment demonstration for the 1997 ozone NAAQS, the EPA approved a number of commitments by CARB and the SCAQMD as part of the California SIP. The commitments included bringing

certain defined measures before their respective boards by certain dates, achieving certain aggregate emissions reductions by certain milestone years, and achieving emissions reductions from development and implementation of advanced control technologies under CAA section 182(e)(5).

In 2012, the EPA’s 2009 final partial approval and partial disapproval action on the 2003 AQMP and related state strategy for the 1-hour ozone NAAQS was successfully challenged in the Ninth Circuit Court of Appeals,¹¹ and in response, the EPA issued a SIP call under CAA section 110(k)(5) to California for a new 1-hour ozone attainment demonstration for the South Coast.¹² CARB and the District, in turn, prepared and submitted a new attainment demonstration for the 1-hour ozone NAAQS as part of the 2012 AQMP, and the EPA took the following action:

- 2012 AQMP—The EPA approved new control measures and commitments for both the 1-hour ozone NAAQS and 1997 ozone NAAQS and approved a new attainment demonstration for the 1-hour ozone NAAQS in the South Coast that provides for attainment of the 1-hour ozone NAAQS by December 31, 2022 at 79 FR 52526 (September 3, 2014).

The SIP revisions that are the subject of today’s proposed action update certain commitments made in connection with the 2007 South Coast Ozone SIP for the 1997 ozone NAAQS and the 2012 AQMP for both the 1997 ozone NAAQS and the 1-hour ozone NAAQS. These revised commitments reflect updated emissions inventories and new modeling results.

In 2008, the EPA lowered the 8-hour ozone NAAQS to 0.075 ppm (referred to herein as the “2008 ozone NAAQS”) to replace the 1997 ozone NAAQS of 0.08 ppm.¹³ In 2012, the EPA designated the South Coast as nonattainment for the 2008 ozone NAAQS and classified the area as Extreme.¹⁴ Areas classified as Extreme must attain the NAAQS within 20 years of the effective date of the nonattainment designation.¹⁵ The SIP

⁶ Under California law, CARB is the state agency that is responsible for the adoption and submission to the EPA of California SIPs and SIP revisions, and it has broad authority to establish emissions standards and other requirements for mobile sources. Local and regional air pollution control districts in California are responsible for the regulation of stationary sources and are generally responsible for the development of regional air quality plans. In the South Coast, the South Coast Air Quality Management District develops and adopts air quality management plans to address CAA planning requirements applicable to that region. Such plans are then submitted to CARB for adoption and submittal to the EPA as revisions to the California SIP.

⁷ 56 FR 56694 (November 6, 1991).

⁸ 76 FR 82133 (December 30, 2011).

⁹ 62 FR 38856 (July 18, 1997).

¹⁰ 75 FR 24409 (May 5, 2010).

¹¹ *Association of Irrigated Residents v. EPA*, 632 F.3d 584 (9th Cir. 2011), reprinted as amended on January 27, 2012, 686 F.3d 668, further amended February 13, 2012.

¹² 78 FR 889 (January 7, 2013).

¹³ 73 FR 16436 (March 27, 2008). The EPA further tightened the 8-hour ozone NAAQS to 0.070 ppm in 2015, but this proposed action relates to the requirements for the 1-hour ozone NAAQS, the 1997 ozone NAAQS and the 2008 ozone NAAQS. Information on the 2015 ozone NAAQS is available at 80 FR 65292 (October 26, 2015).

¹⁴ 77 FR 30088 (May 21, 2012).

¹⁵ CAA section 181(a)(1), 40 CFR 51.1102 and 51.1103(a).

revisions that are the subject of today's proposed action address the Extreme nonattainment area requirements that apply to the South Coast for the 2008 ozone NAAQS.

B. The South Coast Ozone Nonattainment Area

The South Coast nonattainment area for the 2008 ozone NAAQS consists of Orange County, the southwestern two-thirds of Los Angeles County, southwestern San Bernardino County, and western Riverside County. The South Coast nonattainment area encompasses an area of approximately 6,600 square miles and is bounded by the Pacific Ocean to the west and the San Gabriel, San Bernardino, and San Jacinto mountains to the north and east.¹⁶ The population of the South Coast nonattainment area is over 16 million people, and it is projected to increase by 13 percent to over 18 million people in 2031.¹⁷ The AQMPs and state control measures discussed above have produced significant emissions reductions over the years and improved air quality in the South Coast. For instance, the 8-hour ozone design value for the South Coast decreased from 0.166 ppm to 0.102 ppm from 1995 to 2015, despite substantial increases in population and business and vehicular activity, and the 1-hour ozone design value decreased from 0.250 ppm to 0.130 ppm over that same period.¹⁸

C. CAA and Regulatory Requirements for 2008 Ozone Nonattainment Area SIPs

States must implement the 2008 ozone NAAQS under Title 1, part D of the CAA, including sections 171–179B of subpart 1 (“Nonattainment Areas in General”) and sections 181–185 of subpart 2 (“Additional Provisions for Ozone Nonattainment Areas”). To assist states in developing effective plans to address ozone nonattainment problems, in 2015, the EPA issued a SIP Requirements Rule (SRR) for the 2008 ozone NAAQS (“2008 Ozone SRR”) that addressed implementation of the 2008 standards, including attainment dates,

¹⁶ For a precise definition of the boundaries of the South Coast 2008 ozone nonattainment area, see 40 CFR 81.305.

¹⁷ 2016 AQMP, page 1–5.

¹⁸ For the 8-hour ozone NAAQS, the design value at any given monitoring site is the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentration. For the 1-hour ozone NAAQS, the design value at any given monitoring site is the fourth highest daily maximum 1-hour ozone concentration measured over a three-year period. The maximum design value among the various ozone monitoring sites is the design value for the area. The ozone data for 1995 through 2015 are from appendix II (“Current Air Quality”) of the 2016 AQMP.

requirements for emissions inventories, attainment and reasonable further progress (RFP) demonstrations, among other SIP elements, as well as the transition from the 1997 ozone NAAQS to the 2008 ozone NAAQS and associated anti-backsliding requirements.¹⁹ The 2008 Ozone SRR is codified at 40 CFR part 51, subpart AA. We discuss the CAA and regulatory requirements for the elements of 2008 ozone plans relevant to this proposal in more detail below.

The EPA's 2008 Ozone SRR was challenged, and on February 16, 2018, the U.S. Court of Appeals for the D.C. Circuit (“D.C. Circuit”) published its decision in *South Coast Air Quality Management District v. EPA*²⁰ (“*South Coast II*”) ²¹ vacating portions of the 2008 Ozone SRR. The only aspect of the *South Coast II* decision that affects this proposed action is the vacatur of the alternative baseline year for RFP plans. More specifically, the 2008 Ozone SRR required states to develop the baseline emissions inventory for RFP plans using the emissions for the most recent calendar year for which states submit a triennial inventory to the EPA under subpart A (“Air Emissions Reporting Requirements”) of 40 CFR part 51, which was 2011. However, the 2008 Ozone SRR allowed states to use an alternative year, between 2008 and 2012, for the baseline emissions inventory provided that the state demonstrated why the alternative baseline year was appropriate. In the *South Coast II* decision, the D.C. Circuit vacated the provisions of the 2008 Ozone SRR that allowed states to use an alternative baseline year for demonstrating RFP.

II. Submissions From the State of California To Address 2008 Ozone Requirements in the South Coast

A. Summary of Submissions

In this document, we are proposing action on all or portions of five SIP revisions, which are described in detail in the following paragraphs. Collectively, we refer to the relevant portions of the five SIP revisions as the “2016 South Coast Ozone SIP.”

¹⁹ 80 FR 12264 (March 6, 2015).

²⁰ *South Coast Air Quality Management District v. EPA*, 882 F.3d 1138 (D.C. Cir. 2018) (“*South Coast II*”).

²¹ The term “*South Coast II*” is used in reference to the 2018 court decision to distinguish it from a decision published in 2006 also referred to as “*South Coast*.” The earlier decision involved a challenge to the EPA's Phase 1 implementation rule for the 1997 ozone NAAQS. *South Coast Air Quality Management Dist. v. EPA*, 472 F.3d 882 (D.C. Cir. 2006).

1. SCAQMD's 2016 Air Quality Management Plan

On April 27, 2017, CARB submitted the Final 2016 Air Quality Management Plan (March 2017) (“2016 AQMP”) to the EPA as a revision to the California SIP.²² The 2016 AQMP addresses the nonattainment area requirements for the South Coast for the 2008 ozone NAAQS, the 2006 fine particle (PM_{2.5}) NAAQS and the 2012 PM_{2.5} NAAQS, and for the Coachella Valley for the 2008 ozone NAAQS. It also updates the approved attainment demonstrations for the 1-hour ozone and 1997 ozone NAAQS for the South Coast and adds new measures to reduce the reliance on section 182(e)(5) new technology measures to attain those standards. We have already taken action to approve the 2016 AQMP with respect to the 2006 PM_{2.5} NAAQS (except for the related contingency measure element).²³ In this document, we are proposing action on the ozone portion of the 2016 AQMP for the South Coast. Action on the portions of the 2016 AQMP that relate to the 2012 PM_{2.5} NAAQS in the South Coast and to the 2008 ozone NAAQS in Coachella Valley will be taken in separate rulemakings.

The SIP revision for the 2016 AQMP includes the various chapters and appendices of the 2016 AQMP, described further below, plus the District's resolution of adoption for the plan (District Resolution 17–2) and CARB's resolution of adoption of the 2016 AQMP as a revision to the California SIP (CARB Resolution 17–8) that include commitments on which the 2016 AQMP relies.²⁴ With respect to ozone, the 2016 AQMP addresses the CAA requirements for emissions inventories, air quality modeling demonstrating attainment, reasonably available control measures (RACM), RFP, advanced technology/clean fuels for boilers, transportation control strategies and measures, and contingency measures for failure to make RFP, among other requirements.

The 2016 AQMP is organized into eleven chapters, most of which are relevant to the ozone NAAQS in the South Coast.²⁵ Chapter 1,

²² Letter dated April 27, 2017, from Richard Corey, Executive Officer, CARB, to Alexis Strauss, Acting Regional Administrator, EPA Region IX.

²³ 84 FR 3305 (February 12, 2019).

²⁴ SCAQMD Board Resolution 17–2, March 3, 2017; CARB Board Resolution 17–8, 2016 Air Quality Management Plan for Ozone and PM_{2.5} in the South Coast and the Coachella Valley, March 23, 2017.

²⁵ The following chapters or portions thereof in the 2016 AQMP were submitted for information only and are not subject to review as part of the SIP revision: The portion of Chapter 6 that is titled “California Clean Air Act Requirements” and that discusses compliance with state law requirements

“Introduction,” introduces the 2016 AQMP, including its purpose, historical air quality progress in the South Coast, and the District’s approach to air quality planning. Chapter 2, “Air Quality and Health Effects,” discusses current air quality in comparison with federal health-based air pollution standards. Chapter 3, “Base Year and Future Emissions,” summarizes emissions inventories, estimates current emissions by source and pollutant, and projects future emissions with and without growth. Chapter 4, “Control Strategy and Implementation,” presents the control strategy, specific measures, and implementation schedules to attain the air quality standards by the specified attainment dates. Chapter 5, “Future Air Quality,” describes the modeling approach used in the 2016 AQMP and summarizes the South Coast’s future air quality projections with and without the control strategy. Chapter 6, “Federal and State Clean Air Act Requirements,” discusses specific federal and state requirements as they pertain to the South Coast, including anti-backsliding requirements for revoked standards. Chapter 11, “Public Process and Participation,” describes the District’s public outreach effort associated with the development of the 2016 AQMP. A glossary is provided at the end of the document, presenting definitions of commonly used terms found in the 2016 AQMP.

The 2016 AQMP also includes the following technical appendices:

- Appendix I (“Health Effects”) presents a summary of scientific findings on the health effects of ambient air pollutants.
- Appendix II (“Current Air Quality”) contains a detailed summary of the air quality in 2015, along with prior year trends, in both the South Coast and the Coachella Valley.
- Appendix III (“Base and Future Year Emission Inventory”) presents the 2012 base year emissions inventory and projected emission inventories of air

for clean air plans; Chapter 8, “Looking Beyond Current Requirements,” assesses the South Coast’s status with respect to the 2015 8-hour ozone standard of 0.070 ppm; Chapter 9, “Air Toxic Control Strategy,” examines the ongoing efforts to reduce health risk from toxic air contaminants, co-benefits from reducing criteria pollutants, and potential future actions; and Chapter 10, “Climate and Energy,” provides a description of current and projected energy demand and supply issues in the South Coast, and the relationship between air quality improvement and greenhouse gas mitigation goals. As noted previously, we are not taking action in this rulemaking on the portions of the 2016 AQMP that relate to the 2008 ozone NAAQS in Coachella Valley, which includes Chapter 7 (“Current and Future Air Quality—Desert Nonattainment Areas SIP”) and the portions that relate to the PM_{2.5} NAAQS in the South Coast.

pollutants in future attainment years for both annual average and summer planning inventories.

- Appendix IV–A (“SCAQMD’s Stationary and Mobile Source Control Measures”) describes SCAQMD’s proposed stationary and mobile source control measures to attain the federal ozone and fine particulate matter PM_{2.5} standards.
- Appendix IV–B (“CARB’s Mobile Source Strategy”) describes CARB’s proposed 2016 strategy to attain health-based federal air quality standards.
- Appendix IV–C (“Regional Transportation Strategy and Control Measures”) describes the Southern California Association of Governments’ (SCAG) “Final 2016–2040 Regional Transportation Plan/Sustainable Communities Strategy” and transportation control measures included in the 2016 PM_{2.5} Plan.
- Appendix V (“Modeling and Attainment Demonstrations”) provides the details of the regional modeling for the attainment demonstration.
- Appendix VI (“Compliance with Other Clean Air Act Requirements”) provides the District’s demonstration that the 2016 AQMP complies with specific CAA requirements.

As discussed in section III.D of this notice, the attainment demonstrations for the 1997 and 2008 ozone NAAQS in the 2016 AQMP rely on certain commitments made by CARB in the Revised Proposed 2016 State Strategy for the State Implementation Plan (March 7, 2017) (“2016 State Strategy”), which was also submitted on April 27, 2017. Since submittal of the 2016 AQMP, the District and CARB have updated and supplemented certain other elements of the 2016 AQMP (such as the RFP demonstration, contingency measure element, motor vehicle emissions budgets, and 1-hour ozone attainment demonstration) through SIP revision submittals dated December 5, 2018 and December 20, 2018, also discussed in section II.A of this notice.

2. CARB’s 2016 State Strategy

On April 27, 2017, CARB submitted the 2016 State Strategy to the EPA as a revision to the California SIP.²⁶ The SIP revision for the 2016 State Strategy includes the main document itself plus CARB’s resolution of adoption of the 2016 State Strategy (CARB Resolution 17–7) that includes commitments on which the 2016 State Strategy relies.²⁷

²⁶ Letter dated April 27, 2017 from Richard Corey, Executive Officer, CARB, to Alexis Strauss, Acting Regional Administrator, EPA Region IX.

²⁷ CARB Board Resolution 17–7, 2016 State Strategy for the State Implementation Plan, March 23, 2017.

CARB worked closely with the District in the development of the 2016 AQMP and anticipated the need to adopt State commitments to achieve aggregate emission reductions in the South Coast. The commitment in the 2016 State Strategy includes two components: (1) A commitment to bring to the CARB Board for consideration, or to otherwise take action on, certain defined new measures (e.g., new California low-NO_x standards for on-road heavy-duty engines, low-emission diesel requirements for off-road equipment, and continued development of advanced technologies pursuant to CAA section 182(e)(5)), and (2) a commitment to achieve aggregate emissions reductions by specific dates. In the 2016 State Strategy, CARB made separate aggregate emissions reduction commitments for the South Coast and San Joaquin Valley.

On February 12, 2019, we approved CARB’s commitment from the 2016 State Strategy for the 2008 ozone NAAQS attainment plan for the San Joaquin Valley.²⁸ In today’s action, we are proposing approval of CARB’s commitment from the 2016 State Strategy for the 2016 South Coast Ozone SIP. With respect to the South Coast, CARB’s aggregate emissions reduction commitment amounts to 113 tons per day (tpd) of NO_x and 50 to 51 tpd of VOCs by 2023 to meet the 1997 ozone NAAQS, and 111 tpd of NO_x and 59 to 60 tpd of VOCs by 2031 to meet 2008 ozone NAAQS.²⁹

3. CARB’s 2018 Updates to the California State Implementation Plan

On December 5, 2018, CARB submitted the 2018 Updates to the California State Implementation Plan (“2018 SIP Update”) to the EPA as a revision to the California SIP.³⁰ CARB adopted the 2018 SIP Update on October 25, 2018. CARB developed the 2018 SIP Update in response to the court’s decision in *South Coast II* vacating the 2008 Ozone SRR with respect to the use of an alternate baseline year for demonstrating RFP and to address contingency measure requirements in the wake of the court decision in *Bahr v. EPA*.³¹ The 2018 SIP

²⁸ 84 FR 3302 (February 12, 2019).

²⁹ Staff Report, ARB Review of the 2016 Air Quality Management Plan for the South Coast Air Basin and Coachella Valley, March 7, 2017; CARB Board Resolution 17–7, 2016 State Strategy for the State Implementation Plan, March 23, 2017.

³⁰ Letter dated December 5, 2018, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region IX.

³¹ *Bahr v. EPA*, 836 F.3d 1218 (9th Cir. 2016) (“*Bahr v. EPA*”). In *Bahr v. EPA*, the court rejected the EPA’s longstanding interpretation of CAA

Update includes an RFP demonstration using the required 2011 baseline year for the South Coast for the 2008 ozone NAAQS. The 2018 SIP Update also includes updated motor vehicle emission budgets and information to support the contingency measure element.

The 2018 SIP Update includes updates for 8 different California ozone nonattainment areas. We have already taken action to approve the San Joaquin Valley portion of the 2018 SIP Update,³² and in today's document, we are taking action on the South Coast portion of the 2018 SIP Update. Also, to supplement the contingency measure element of the 2016 South Coast Ozone SIP, CARB forwarded a January 29, 2019 letter of commitment from the District.³³ In its letter, the District commits to modify an existing rule or adopt a new rule to create a contingency measure that will be triggered if the area fails to meet an RFP milestone for the 2008 ozone NAAQS.³⁴ In the February 13, 2019 letter, CARB commits to submit the revised District rule to the EPA as a SIP revision within 12 months of the final action on the EPA's final action on the RFP contingency measure element of the 2016 South Coast Ozone SIP.³⁵

4. SCAQMD's Updated Attainment Demonstration for the 1-Hour Ozone NAAQS

On December 20, 2018, CARB submitted the Updated Federal 1979 1-Hour Ozone Standard Attainment Demonstration (November 2018) ("1-Hour Ozone Update") to the EPA as a

section 172(c)(9) as allowing for early implementation of contingency measures. The court concluded that a contingency measure must take effect at the time the area fails to make RFP or attain by the applicable attainment date, not before.

³² 84 FR 11198 (March 25, 2019). In our March 25, 2019 final rule, the EPA approved Resolution 18-50 (adopting the 2018 SIP Update as a SIP revision), including Attachments A ("Covered Districts"), B ("Menu of Enhanced Enforcement Actions") and C ("Correction of Typographical Error"), chapter VIII ("SIP Elements for the San Joaquin Valley"), chapter X ("Contingency Measures") and Appendix A ("Nonattainment Area Inventories"), A-1, A-2 and A-27 through A-30, only.

³³ Letter dated February 13, 2019, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region IX.

³⁴ Letter dated January 29, 2019, from Wayne Nastri, SCAQMD Executive Officer, to Richard Corey, CARB Executive Officer. The District clarified its January 29, 2019 commitment in a letter dated May 2, 2019, from Wayne Nastri, SCAQMD Executive Officer, to Richard Corey, CARB Executive Officer. CARB forwarded the District's clarification to the EPA in a letter dated May 20, 2019, from Michael Benjamin, CARB, to Amy Zimpfer, EPA Region IX.

³⁵ Letter dated February 13, 2019, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region IX.

revision to the California SIP.³⁶ The emissions inventories used for the 1997 and 2008 (8-hour) ozone attainment demonstrations in the 2016 AQMP reflect planning assumptions that were updated after the District had completed the 1-hour ozone attainment demonstration for the 2016 AQMP, and the District prepared the 1-Hour Ozone Update to align the attainment demonstration for the 1-hour ozone NAAQS with the attainment demonstrations in the 2016 AQMP for the 1997 and 2008 ozone NAAQS.

The 1-Hour Ozone Update includes an updated emissions inventory consistent with the final emissions inventory used for the 8-hour ozone attainment demonstrations in the 2016 AQMP, revised air quality modeling, and an updated attainment strategy that demonstrates attainment of the 1-hour ozone NAAQS by 2022 without the need for reductions from CAA section 182(e)(5) new technology measures. While the updated attainment demonstration for the 1-hour ozone NAAQS no longer relies on emissions reductions from the 2016 State Strategy or CAA section 182(e)(5) measures, it continues to rely on the District's commitment from the 2016 AQMP to achieve aggregate emissions reductions of 20.6 tpd of NO_x and 6.1 tpd of VOC by 2022.

5. SCAQMD's Rule 301 ("Permitting and Associated Fees")

On May 20, 2019, CARB requested that the EPA accept a public draft revision to District Rule 301 ("Permitting and Associated Fees") for parallel processing.³⁷ Under the EPA's parallel processing procedure, the EPA may propose action on a public draft version of a SIP revision but will take final action only after the state adopts and submits the final version to the EPA for approval.³⁸ If there are no significant changes from the public draft version of the SIP revision to the final version, the EPA may elect to take final action on the proposal. The draft revision was released for public review on May 17, 2019. In this case, it is anticipated that the District will adopt without significant modifications revised Rule 301 on July 12, 2019 and will submit the revised rule to CARB for adoption and submittal to the EPA as a revision to the California SIP. We are proposing our action based on the public draft version

³⁶ Letter dated December 20, 2018, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region IX.

³⁷ Letter dated May 20, 2019, from Richard Corey, CARB Executive Officer, to Michael Stoker, Regional Administrator, EPA Region IX.

³⁸ See 40 CFR part 51, appendix V, section 2.3.

of revised Rule 301 submitted to us for parallel processing on May 20, 2019.

District Rule 301 includes a number of provisions related solely to fees, which are not required to be in the SIP, but, it also includes certain provisions (specifically, paragraphs (e)(1)(A) and (B), (e)(2), (e)(5) and (e)(8)) that require annual reporting of emissions of VOC and NO_x from certain stationary sources. The relevant provisions of District Rule 301 are intended by the District and CARB to address the emissions statement requirement in CAA section 182(a)(3)(B) for the South Coast for the 2008 ozone NAAQS. In this document, we are proposing action on the relevant portions of revised District Rule 301 based on the public draft version of the rule submitted to us for parallel processing on May 20, 2019.

B. Clean Air Act Procedural Requirements for Adoption and Submission of SIP Revisions

CAA sections 110(a) and 110(l) require a state to provide reasonable public notice and opportunity for public hearing prior to the adoption and submission of a SIP or SIP revision. To meet this requirement, every SIP submittal should include evidence that adequate public notice was given and an opportunity for a public hearing was provided consistent with the EPA's implementing regulations in 40 CFR 51.102.

Both the District and CARB have satisfied the applicable statutory and regulatory requirements for reasonable public notice and hearing prior to the adoption and submittal of the SIP revisions that comprise the 2016 South Coast Ozone SIP. With respect to the 2016 AQMP, the District held six regional workshops from July 14 through July 21, 2016 to discuss the plan and solicit public input. On December 19 and 20, 2016, the District published notices in several local newspapers of a public hearing to be held on February 3, 2017, for the adoption of the 2016 AQMP.³⁹ On February 3, 2017, the District held the public hearing, and, through Resolution 17-2, adopted on March 3, 2017, the 2016 AQMP and directed the Executive Officer to forward the plan to CARB for inclusion in the California SIP.

CARB also provided public notice and opportunity for public comment on the 2016 AQMP. On March 6, 2017, CARB

³⁹ Memorandum dated January 24, 2017, from Denise Garzaro, Clerk of the Boards, SCAQMD to Arlene Martinez, Administrative Secretary, Planning, Rule Development and Area Sources, SCAQMD. The memorandum includes copies of the proofs of publication of the notice for the February 3, 2017 public hearing.

released for public review its Staff Report for the 2016 AQMP and published a notice of public meeting to be held on March 23, 2017, to consider adoption of the 2016 AQMP.⁴⁰ On March 23, 2017, CARB held the hearing and adopted the 2016 AQMP as a revision to the California SIP, excluding those portions not required to be submitted to the EPA, and directed the Executive Officer to submit the 2016 AQMP to the EPA for approval into the California SIP.⁴¹ On April 27, 2017, the Executive Officer of CARB submitted the 2016 AQMP to the EPA and included the transcript of the hearing held on March 23, 2017.⁴² On October 23, 2017, the EPA determined that the portions of this submittal applicable to the 2008 ozone NAAQS were complete.⁴³

With respect to the 2016 State Strategy, on May 17, 2016, CARB circulated for public review and comment the Proposed State Strategy, provided a 60-day comment period, and provided notice of a public hearing by its Board to be held on September 22, 2016. On March 7, 2017, in response to comments received during the public comment period and later during public workshops, and, based on Board direction provided to staff during the September 22, 2016 Board meeting, CARB released a Revised Proposed State Strategy. On March 23, 2017, through Resolution 17–7, CARB adopted the 2016 State Strategy following public hearing. On April 27, 2017, CARB submitted the 2016 State Strategy to the EPA as a revision to the California SIP.

With respect to the 2018 SIP Update, CARB also provided public notice and opportunity for public comment. On September 21, 2018, CARB released for public review the 2018 SIP Update and published a notice of public meeting to be held on October 23, 2018, to consider adoption of the 2018 SIP Update.⁴⁴ On October 23, 2018, through Resolution 18–50, CARB adopted the 2018 SIP Update. On December 5, 2018, CARB submitted the 2018 SIP Update to the EPA.

⁴⁰ Notice of Public Meeting to Consider Adopting the 2016 Air Quality Management Plan for Ozone and PM_{2.5} for the South Coast Air Basin and the Coachella Valley signed by Richard Corey, Executive Officer, CARB, March 6, 2017.

⁴¹ CARB Resolution 17–8, 10.

⁴² Transcript of the March 23, 2017 Meeting of the State of California Air Resources Board.

⁴³ Letter dated October 23, 2017, from Matthew J. Lakin, Acting Director, Air Division, EPA Region IX to Richard Corey, Executive Officer, CARB.

⁴⁴ Notice of Public Meeting to Consider the 2018 Updates to the California State Implementation Plan signed by Richard Corey, Executive Officer, CARB, September 21, 2018.

With respect to the 1-Hour Ozone Update, the District held a workshop on September 20, 2018. On October 3, 2018, the District published notices in several local newspapers for a public hearing to be held on November 2, 2018, for the adoption of the 1-Hour Ozone Update.⁴⁵ On November 2, 2018, the District held the public hearing, and, through Resolution 18–20, adopted the 1-Hour Ozone Update and directed the Executive Officer to forward the plan to CARB for inclusion in the California SIP. On November 9, 2018, CARB published a notice of public meeting to be held on December 5, 2018, to consider adoption of the 1-Hour Ozone Update.⁴⁶ On December 13, 2018, through Resolution 18–55, CARB adopted the 1-Hour Ozone Update, and on December 20, 2018, CARB submitted the 1-Hour Ozone Update to the EPA.

With respect to District Rule 301, by letter dated May 20, 2019, CARB submitted the public draft revision to District Rule 301 to the EPA with a request for parallel processing. The District is expected to adopt the revision on July 12, 2019, and to forward the rule (along with the necessary public process documentation) to CARB for approval and submittal to the EPA as a revision to the California SIP.

Based on information provided in each of the SIP revisions summarized above, the EPA has determined that all hearings were properly noticed. Therefore, we find that the submittals of the 2016 AQMP, the 2016 State Strategy, the 2018 SIP Update, and the 1-Hour Ozone Update meet the procedural requirements for public notice and hearing in CAA sections 110(a) and 110(l) and 40 CFR 51.102. We anticipate receipt of all the necessary public process documentation for adoption of District Rule 301 when we receive the formal SIP submittal package from CARB.

III. Evaluation of the 2016 South Coast Ozone SIP

A. Emissions Inventories

1. Statutory and Regulatory Requirements

CAA sections 172(c)(3) and 182(a)(1) require states to submit for each ozone nonattainment area a “base year inventory” that is a comprehensive, accurate, current inventory of actual

⁴⁵ See proofs of publications dated October 3, 2018, from the Inland Daily Bulletin, Los Angeles Daily Journal, Orange County Reporter, The Press Enterprise, and San Bernardino Sun.

⁴⁶ Notice of Public Meeting to Consider the Proposed Revision to the South Coast 1-Hr Ozone State Implementation Plan signed by Richard Corey, Executive Officer, CARB, November 9, 2018.

emissions from all sources of the relevant pollutant or pollutants in the area. In addition, the 2008 Ozone SRR requires that the inventory year be selected consistent with the baseline year for the RFP demonstration, which is the most recent calendar year for which a complete triennial inventory is required to be submitted to the EPA under the Air Emissions Reporting Requirements.⁴⁷

The EPA has issued guidance on the development of base year and future year emissions inventories for 8-hour ozone and other pollutants.⁴⁸ Emissions inventories for ozone must include emissions of VOC and NO_x and represent emissions for a typical ozone season weekday.⁴⁹ States should include documentation explaining how the emissions data were calculated. In estimating mobile source emissions, states should use the latest emissions models and planning assumptions available at the time the SIP is developed.⁵⁰

Future baseline emissions inventories must reflect the most recent population, employment, travel and congestion estimates for the area. In this context, “baseline” emissions inventories refer to emissions estimates for a given year and area that reflect rules and regulations and other measures that are already adopted. Future baseline emissions inventories are necessary to show the projected effectiveness of SIP control measures. Both the base year and future year inventories are necessary for photochemical modeling to demonstrate attainment.

2. Summary of State’s Submission

The 2016 AQMP includes base year (2012) and future year baseline inventories for NO_x and VOC for the South Coast ozone nonattainment area. Documentation for the inventories is found in Chapter 3 (“Base Year and Future Emissions”) and Appendix III (“Base Year and Future Year Emission Inventory”) of the 2016 AQMP. Because ozone levels in South Coast are typically higher from May through October, these

⁴⁷ 2008 Ozone SRR at 40 CFR 51.1115(a) and the Air Emissions Reporting Requirements at 40 CFR part 51 subpart A.

⁴⁸ “Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations,” EPA–454/B–17–002, May 2017. At the time the 2016 AQMP was developed, the following EPA emissions inventory guidance applied: “Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations” EPA–454–R–05–001, November 2005.

⁴⁹ 40 CFR 51.1115(a) and (c), and 40 CFR 51.1100(bb) and (cc).

⁵⁰ 80 FR 12264, at 12290 (March 6, 2015).

inventories represent average summer day emissions. The 2012 base year and future year inventories in the 2016 AQMP reflect District rules adopted prior to December 2015 and CARB rules adopted by November 2015. Both base year and projected future year inventories use the current EPA-approved version of California’s mobile source emissions model, EMFAC2014, for estimating on-road motor vehicle emissions.⁵¹

VOC and NO_x emissions estimates in the 2016 AQMP are grouped into two general categories, stationary sources and mobile sources. Stationary sources are further divided into “point” and “area” sources. Point sources typically refer to permitted facilities and have one or more identified and fixed pieces of equipment and emissions points. Area sources consist of widespread and numerous smaller emission sources, such as small permitted facilities, households, and road dust. The mobile sources category is divided into two major subcategories, “on-road” and “off-road” mobile sources. On-road mobile sources include light-duty automobiles, light-, medium-, and heavy-duty trucks, and motorcycles. Off-road mobile sources include aircraft, locomotives, construction equipment, mobile equipment, and recreational vehicles.

For the 2016 AQMP, point source emissions for the 2012 base year

emissions inventory are based on reported data from facilities using the District’s annual emissions reporting program, which applies under District Rule 301 to stationary sources in the South Coast that emit more than 4 tons per year (tpy) or more of VOC or NO_x. Area sources include smaller emissions sources distributed across the nonattainment area. CARB and the District estimate emissions for about 400 area source categories using established inventory methods, including publicly-available emission factors and activity information. Activity data are derived from national survey data such as the Energy Information Administration or from local sources such as the Southern California Gas Company, paint suppliers, and District databases. Emission factors used for the estimates come from a number of sources including source tests, compliance reports, and the EPA’s compilation of emissions factor document known as “AP-42.”

On-road emissions inventories in the 2016 AQMP are calculated using CARB’s EMFAC2014 model and the travel activity data provided by SCAG in “The 2016–2040 Regional Transportation Plan/Sustainable Communities Strategy.”⁵² CARB provided emissions inventories for off-road equipment, including construction

and mining equipment, industrial and commercial equipment, lawn and garden equipment, agricultural equipment, ocean-going vessels, commercial harbor craft, locomotives, cargo handling equipment, pleasure craft, and recreational vehicles. CARB uses several models to estimate emissions for more than one hundred off-road equipment categories.⁵³ Aircraft emissions are developed in conjunction with the airports in the region. For the base year and future attainment year inventories, marine vessel emissions out to 100 nautical miles from the coastline are included.

Table 1 provides a summary of the District’s 2012 base year and future attainment year baseline emissions estimates in tons per average summer day for NO_x and VOC. These inventories provide the basis for the control measure analysis and the attainment demonstrations in the 2016 AQMP. Based on the inventory for 2012, stationary and area sources currently account for roughly 40 percent of VOC emissions and 10 percent of the NO_x emissions in the South Coast while mobile sources account for roughly 60 percent of the VOC emissions and 90 percent of the NO_x emissions. For a more detailed discussion of the inventories, see Appendix III of the 2016 AQMP.

TABLE 1—SOUTH COAST BASE YEAR AND ATTAINMENT YEAR BASELINE EMISSIONS INVENTORIES
[Summer planning inventory, tpd]

Category	2012		2022		2023		2031	
	NO _x	VOC	NO_{x}	VOC	NO_{x}	VOC	NO_{x}	VOC
Stationary and Area Sources	65	211	50	220	50	220	50	231
On-Road Mobile Sources	293	162	117	71	88	68	65	49
Off-Road Mobile Sources	165	126	120	92	117	90	100	81
Total	522	500	287	383	255	379	214	362

Source: 2016 AQMP, Chapter 3, tables 3–2, 3–4B, 3–4C and 3–4E. The sum of the emissions values may not equal the total shown due to rounding of the numbers.

Future emissions forecasts in the 2016 AQMP are primarily based on demographic and economic growth projections provided by SCAG, the metropolitan planning organization (MPO) for the South Coast, and control factors developed by the District in reference to the 2012 base year. Growth factors used to project these baseline inventories are derived mainly from data obtained from SCAG.⁵⁴

3. The EPA’s Review of the State’s Submission

We have reviewed the 2012 base year emissions inventory in the 2016 AQMP, and the inventory methodologies used by the District and CARB, for consistency with CAA requirements and EPA’s guidance. First, as required by EPA regulation, we find that the 2012 inventory includes estimates for VOC and NO_x for a typical ozone season

weekday, and that CARB has provided adequate documentation explaining how the emissions are calculated. Second, we find that the 2012 base year emissions inventory in the 2016 AQMP reflects appropriate emissions models and methodologies, and, therefore, represents a comprehensive, accurate, and current inventory of actual emissions during that year in the South Coast nonattainment area. Third, we

⁵¹ 80 FR 77337 (December 14, 2015). EMFAC is short for Emission FACTor. The EPA announced the availability of the EMFAC2014 model for use in state implementation plan development and transportation conformity in California on

December 14, 2015. The EPA’s approval of the EMFAC2014 emissions model for SIP and conformity purposes was effective on the date of publication of the notice in the **Federal Register**.

⁵² See <http://scagtrpssc.net/Pages/FINAL2016RTPSCS.aspx>.

⁵³ 2016 AQMP, Appendix III, page III–1–24.

⁵⁴ 2016 AQMP, Appendix III, page III–2–6.

find that selection of year 2012 for the base year emissions inventory is appropriate because it is consistent with the 2011 RFP baseline year (from the 2018 SIP Update) because both inventories are derived from a common set of models and methods. Lastly, although the requirement for a base year emissions inventory applies to the nonattainment area, we find that the inclusion of marine emissions out to 100 miles (*i.e.*, beyond the nonattainment area boundary, which lies 3 miles offshore) in the base year inventory to be appropriate given that such emissions must be accounted for in the ozone attainment demonstrations. Therefore, the EPA is proposing to approve the 2012 emissions inventory in the 2016 AQMP as meeting the requirements for a base year inventory set forth in CAA section 182(a)(1) and 40 CFR 51.1115.

With respect to future year baseline projections, we have reviewed the growth and control factors and find them acceptable and conclude that the future baseline emissions projections in the 2016 AQMP reflect appropriate calculation methods and the latest planning assumptions. Also, as a general matter, the EPA will approve a SIP revision that takes emissions reduction credit for a control measure only where the EPA has approved the measure as part of the SIP. Thus, to take credit for the emissions reductions from newly-adopted or amended District rules for stationary sources, the related rules must be approved by the EPA into the SIP. Table 2 in the technical support document (TSD) accompanying this rulemaking shows District rules with post-2012 compliance dates that were incorporated in the future year inventories, along with information on EPA approval of these rules, and shows that emissions reductions assumed by the 2016 AQMP for future years for stationary sources are supported by rules approved as part of the SIP. With respect to mobile sources, the EPA has taken action in recent years to approve CARB mobile source regulations into the California SIP.⁵⁵ We therefore find that the future year baseline projections in the 2016 AQMP are properly supported by SIP-approved stationary and mobile source measures.⁵⁶

⁵⁵ See 81 FR 39424 (June 16, 2016), 82 FR 14446 (March 21, 2017), and 83 FR 23232 (May 18, 2018).

⁵⁶ In August 2018, the U.S. Department of Transportation and the EPA published the proposed “Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule” (“SAFE rule”) that, among other things, proposes to withdraw the EPA’s 2013 waiver of preemption for CARB’s Zero Emissions Vehicle (ZEV) mandate and Greenhouse Gas (GHG) standards that are applicable to new model year

B. Emissions Statement

1. Statutory and Regulatory Requirements

Section 182(a)(3)(B)(i) of the Act requires states to submit a SIP revision requiring owners or operators of stationary sources of VOC or NO_x to provide the state with statements of actual emissions from such sources. Statements must be submitted at least every year and must contain a certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement. Section 182(a)(3)(B)(ii) of the Act allows states to waive the emissions statement requirement for any class or category of stationary sources that emit less than 25 tpy of VOC or NO_x, if the state provides an inventory of emissions from such class or category of sources as part of the base year or periodic inventories required under CAA sections 182(a)(1) and 182(a)(3)(A), based on the use of emission factors established by the EPA or other methods acceptable to the EPA.

The preamble of the 2008 Ozone SRR states that if an area has a previously approved emissions statement rule for the 1997 ozone NAAQS or the 1-hour ozone NAAQS that covers all portions of the nonattainment area for the 2008 ozone NAAQS, such rule should be sufficient for purposes of the emissions statement requirement for the 2008 ozone NAAQS.⁵⁷ The state should review the existing rule to ensure it is adequate and, if so, may rely on it to meet the emission statement requirement for the 2008 ozone NAAQS. Where an existing emission statement requirement is still adequate to meet the requirements of this rule, states can provide the rationale for that determination to the EPA in a written statement in the SIP to meet this requirement. States should identify the

2021 through 2025 light-duty vehicles. See 83 FR 42986 (August 24, 2018) and 78 FR 2112 (January 9, 2013). The baseline emissions projections in the 2016 South Coast Ozone SIP assume implementation of the ZEV mandate and GHG standards. In its comments on the SAFE proposal, CARB estimates an emission increase of 1.2 tons per day of NO_x in the South Coast if the SAFE rule is finalized. See “Analysis in Support of Comments of the California Air Resources Board on the Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks,” CARB, October 26, 2018. At this time, we cannot predict the date of final action on the SAFE rule, nor can we pre-judge the outcome of the final rule. This proposed action reflects the emissions projections in the 2016 South Coast Ozone SIP. If the SAFE rule is finalized prior to our final rulemaking on the 2016 South Coast Ozone SIP, we will evaluate and address, as appropriate, the impact of the final SAFE rule on our proposed action.

⁵⁷ See 80 FR 12264, at 12291 (March 6, 2015).

various requirements and how each is met by the existing emissions statement program. Where an emissions statement requirement is modified for any reason, states must provide the revision to the emissions statement as part of its SIP.

2. Summary of the State’s Submission

The 2016 AQMP addresses compliance with the emissions statement requirement in CAA section 182(a)(3)(B) for the 2008 ozone NAAQS by reference to District Rule 301 (“Permitting and Associated Fees”) that, among other things, requires emissions reporting from all stationary sources of NO_x and VOC greater than or equal to 4 tpy. On May 20, 2019, CARB submitted certain provisions from a public draft version of District Rule 301 to the EPA for parallel processing. Once adopted, the District will be forwarding the revised rule to CARB for adoption and submittal to the EPA as a revision to the California SIP.

3. The EPA’s Review of the State’s Submission

For this action, we have evaluated the public draft version of District Rule 301 (*i.e.*, the relevant portions of the rule— paragraphs (e)(1)(A) and (B), (e)(2), (e)(5) and (e)(8)), as submitted for parallel processing on May 20, 2019, for compliance with the specific requirements for emissions statements under CAA section 182(a)(3)(B).⁵⁸ We find that District Rule 301 (paragraphs (e)(1)(A) and (B), (e)(2), (e)(5) and (e)(8)) applies within the entire ozone nonattainment area; applies to all permit holders and to all equipment operating under permit; and requires reporting, on an annual basis, of total emissions of various air pollutants, including VOC and NO_x, if emissions of any one pollutant are equal to or greater than 4 tpy. Also, as required under CAA section 182(a)(3)(B), District Rule 301 requires certification that the information provided to the District is accurate to the best knowledge of the individual certifying the emissions data.

We also note that, while the emissions reporting requirements in District Rule 301 do not apply to permitted sources of emissions less than 4 tpy, such an exclusion is allowed under CAA section 182(a)(3)(B)(ii) so long as the state includes estimates of such class or category of stationary sources in base year emission inventories and periodic inventories submitted under CAA sections 182(a)(1) and 182(a)(3)(A), based on EPA emission factors or other

⁵⁸ District Rule 301 covers a wide array of fees and is over 90 pages long. We are proposing action only on those few sections of the rule that are relevant to the emissions statement requirement.

methods acceptable to the EPA. We recognize that emissions inventories developed by the SCAQMD for the South Coast routinely include actual emissions estimates for all stationary sources or classes or categories of such sources, including those emitting less than 4 tpy, and that such inventories provide the basis for inventories submitted to meet the requirements of CAA sections 182(a)(1) and 182(a)(3)(A). By approval of emission inventories as meeting the requirements of CAA sections 182(a)(1) and 182(a)(3)(A), the EPA is implicitly accepting the methods and factors used by the SCAQMD to develop those emission estimates. Our most recent approval of a base year emission inventory for the South Coast is found at 77 FR 12674 (March 1, 2012) (approval of base year emission inventory for the 1997 ozone NAAQS). In addition, we are proposing approval of the base year inventory for the 2008 ozone NAAQS in this action.

Therefore, for the reasons described in the preceding paragraphs, we propose to approve the public draft version of District Rule 301 (paragraphs (e)(1)(A) and (B), (e)(2), (e)(5) and (e)(8)) as meeting the emissions statement requirements under CAA section 182(a)(3)(B). We will not take final action on District Rule 301 until we receive the formal SIP submittal package from CARB including the final adopted version of the relevant portions of the rule.

C. Reasonably Available Control Measures Demonstration and Control Strategy

1. Statutory and Regulatory Requirements

CAA section 172(c)(1) requires that each attainment plan provide for the implementation of all RACM as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through implementation of reasonably available control technology), and also provide for attainment of the NAAQS. The 2008 Ozone SRR requires that, for each nonattainment area required to submit an attainment demonstration, the state concurrently submit a SIP revision demonstrating that it has adopted all RACM necessary to demonstrate attainment as expeditiously as practicable and to meet any RFP requirements.⁵⁹

The EPA has previously provided guidance interpreting the RACM requirement in the General Preamble for

the Implementation of the Clean Air Act Amendments of 1990 and in a memorandum entitled “Guidance on the Reasonably Available Control Measure Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas.”⁶⁰ In short, to address the requirement to adopt all RACM, states should consider all potentially reasonable control measures for source categories in the nonattainment area to determine whether they are reasonably available for implementation in that area and whether they would, if implemented individually or collectively, advance the area’s attainment date by one year or more.⁶¹ Any measures that are necessary to meet these requirements that are not already either federally promulgated, or part of the state’s SIP, must be submitted in enforceable form as part of the state’s attainment plan for the area.⁶²

2. Summary of the State’s Submission

For the 2016 South Coast Ozone SIP, the District, CARB, and SCAG each undertook a process to identify and evaluate potential RACM that could contribute to expeditious attainment of the 2008 ozone NAAQS in the South Coast. We describe each agency’s efforts below.

a. District’s RACM Analysis

The District’s RACM demonstration for the 2008 ozone NAAQS focuses on

⁶⁰ See General Preamble, 57 FR 13498 at 13560 (April 16, 1992) and memorandum dated November 30, 1999, from John Seitz, Director, OAQPS, to Regional Air Directors, titled “Guidance on the Reasonably Available Control Measure Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas.”

⁶¹ Id. See also 44 FR 20372 (April 4, 1979), and memorandum dated December 14, 2000, from John S. Seitz, Director, OAQPS, to Regional Air Directors, titled “Additional Submission on RACM From States with Severe One-Hour Ozone Nonattainment Area SIPs.”

⁶² For ozone nonattainment areas classified as Moderate or above, CAA section 182(b)(2) also requires implementation of reasonably available control technology (RACT) for all major sources of VOC and for each VOC source category for which the EPA has issued a control techniques guideline. CAA section 182(f) requires that RACT under section 182(b)(2) also apply to major stationary sources of NO_x. In Extreme areas, a major source is a stationary source that emits or has the potential to emit at least 10 tpy of VOC or NO_x (see CAA section 182(e) and (f)). Under the 2008 Ozone SRR, states were required to submit SIP revisions meeting the RACT requirements of CAA sections 182(b)(2) and 182(f) no later than 24 months after the effective date of designation for the 2008 Ozone NAAQS and to implement the required RACT measures as expeditiously as practicable but no later than January 1 of the 5th year after the effective date of designation (see 40 CFR 51.1112(a)). California submitted the CAA section 182 RACT SIP for the South Coast on July 18, 2014, and the EPA fully approved this submission at 82 FR 43850 (September 20, 2017).

stationary and area source controls, and it is described in Appendix VI–A (“Reasonably Available Control Measures (RACM)/Best Available Control Measures (BACM) Demonstration”) of the 2016 AQMP. Appendix VI–A contains analyses of all potential control measures for emission reduction opportunities, as well as economic and technological feasibility.

As a first step in the RACM analysis, the District prepared a detailed inventory of emissions sources that emit VOC and NO_x to identify source categories from which emissions reductions would effectively contribute to attainment. Details on the methodology and development of the emission inventory are discussed in chapter 3 and appendix III of the 2016 AQMP. A total of 76 source categories are included in the base year emission inventory, 46 represent stationary and area sources and 30 for mobile sources.⁶³

The District’s RACM analysis builds upon a foundation of District rules developed for earlier ozone plans and approved as part of the SIP. We provide a list of the District’s NO_x and VOC rules approved into the California SIP in Table 1 of our TSD for this proposed action. The 86 SIP-approved District VOC or NO_x rules listed in Table 1 of our TSD establish emission limits or other types of emissions controls for a wide range of sources, including use of solvents, refineries, gasoline storage, architectural coatings, spray booths, various types of commercial coatings, boilers, steam generators and process heaters, oil and gas production well, marine tank vessel operations, and many more. These rules have already provided significant and ongoing reductions toward attainment of the 2008 ozone NAAQS by 2031.

To demonstrate that the SCAQMD considered all candidate measures that are available and technologically and economically feasible, the District conducted a six-step analysis, as described below.

Step 1. 2015 Air Quality Technology Symposium (“2015 Symposium”).

The 2015 Symposium was held on June 10 and 11, 2015, with participation of technical experts and the public to solicit new and innovative concepts to assist in attaining the 1997 and 2008 ozone NAAQS by the applicable attainment dates. The SCAQMD also conducted an extensive outreach to engage a wide range of stakeholders in the process.

⁶³ 2016 AQMP, Appendix VI–A, Table VI–A–3.

⁵⁹ 40 CFR 51.1112(c).

Step 2. Reasonably Available Control Technology/Best Available Control Technology Analysis.⁶⁴

The District's Reasonably Available Control Technology/Best Available Control Technology (RACT/BACT) analysis found four VOC or NO_x SCAQMD rules (*i.e.*, District Rules 462 (“Organic Liquid Loading”), 1115 (“Motor Vehicle Assembly Line Coating Operations”), 1118 (“Control of Emissions from Refinery Flares”) and 1138 (“Control of Emissions from Restaurant Operations”)) that are less stringent than EPA control techniques guidelines or analogous rules in other air districts. The SCAQMD evaluated the rules as candidate potential measures.

Step 3. EPA TSDs.

The District researched TSDs from recent EPA rulemakings on South Coast rules for EPA recommendations on potential control measures. The TSD for EPA's action on South Coast Rule 1125, “Metal Container, Closure, and Coil Coating Operations” (amended March 7, 2008) was the only applicable and recent TSD that met the criteria for review.

Step 4. Control measures in other areas.

The District reviewed control measures in other areas (*i.e.*, Ventura County, San Francisco Bay Area, San Joaquin Valley, Sacramento Metropolitan, Dallas-Fort Worth and Houston-Galveston-Brazoria, New York, and New Jersey) to evaluate whether control technologies available and cost-effective within other areas would be available and cost-effective for use in the South Coast.

Step 5. Control Measures beyond RACM in 2012 AQMP.

The District updated the RACM analysis for four control measures that were determined to be beyond RACM in the analysis for the prior 2012 AQMP, including reconsideration of emission reductions of VOC from greenwaste composting.

Step 6. EPA Menu of Control Measures.

The Menu of Control Measures (MCM)⁶⁵ compiled by the EPA's Office of Air Quality Planning and Standards was created to provide information useful in the development of emission reduction strategies and to identify and evaluate potential control measures.

⁶⁴ BACM, including BACT, is a requirement for certain PM_{2.5} nonattainment areas. BACM is not a requirement for ozone nonattainment areas, but because the District addresses both PM_{2.5} and ozone in its 2016 AQMP, the District prepared an analysis that addresses both RACT and BACT.

⁶⁵ EPA, MCM, <http://www3.epa.gov/ttn/naaqs/pdfs/MenuOfControlMeasures.pdf>.

District staff reviewed the MCM for point and nonpoint sources of NO_x and VOC.

The District provides a comprehensive evaluation of its RACM control strategy in Appendix VI–A of the 2016 AQMP. The evaluation includes the following: Description of the sources within the category or sources subject to the rule; base year and projected baseline year emissions for the source category affected by the rule; discussion of the current requirements of the rule; and discussion of potential additional control measures, including, in many cases, a discussion of the technological and economic feasibility of the additional control measures. This includes comparison of each District rule to analogous control measures adopted by other agencies.

Based on its RACM analysis for stationary and area sources under its jurisdiction, the District identified the following three additional RACM with quantifiable VOC and NO_x emission reductions: CMB–02—Emission Reductions from Replacement with Zero or Near-Zero NO_x Appliances in Commercial and Residential Applications; CMB–03—Emission Reductions from Non-Refinery Flares; and BCM–10—Emission Reductions from Greenwaste Composting. These three RACM are included in the District's stationary source measures in Table 4–2 of the 2016 AQMP that the District Board adopted through Resolution 17–2. The District estimates that the three RACM measures, once adopted and implemented, will reduce VOC emissions by 1.9 tpd by 2022 and 2023 and by 2.2 tpd by 2031, and will reduce NO_x emissions by 2.5 tpd by 2022 and 2023 and by 4.3 tpd 2031. See tables 4–9, 4–10 and 4–11 of the 2016 AQMP. As to the few remaining measures that the District rejected from its RACM analysis, the District determined that these measures would not collectively advance the attainment date or contribute to RFP due to the uncertain or non-quantifiable emissions reductions they would potentially generate.⁶⁶

Based on its evaluation of all available measures, the District concludes that the District's existing rules are generally as stringent as, or more stringent than the analogous rules in other districts. Further, the District concludes that, based on its comprehensive review and evaluation of potential candidate measures and the adoption of commitments to implement the three

⁶⁶ See 2016 AQMP, Appendix VI–A, page VI–A–40, and Attachments VI–A–1c, VI–A–1d, and VI–A–2.

measures determined to be technologically and economically feasible, the District meets the RACM requirement for the 2008 ozone NAAQS for all sources under the District's jurisdiction.

b. Local Jurisdictions' RACM Analysis and Transportation Control Measures

Appendix IV–C, Regional Transportation Strategy and Control Measures, of the 2016 AQMP, contains the transportation control measures (TCMs) RACM component for the 2016 South Coast Ozone SIP. SCAG, the MPO for the South Coast region, conducted the local jurisdictions' TCM RACM analysis, which is based on SCAG's Final 2016–2040 Regional Transportation Plan/Sustainable Communities Strategy (2016 RTP/SCS) and 2015 Federal Transportation Improvement Program (FTIP) as amended. The 2016 RTP/SCS and FTIP were developed in consultation with federal, state and local transportation and air quality planning agencies and other stakeholders. The four county transportation commissions⁶⁷ in the South Coast were involved in the development of the regional transportation measures in Appendix IV–C.⁶⁸

For the TCM RACM analysis, SCAG compared the list of measures implemented within the South Coast with those implemented in other ozone and PM_{2.5} nonattainment areas.⁶⁹ SCAG then organized measures, including candidate measures and those measures currently implemented in the region, according to the sixteen categories specified in section 108(f)(1)(A) of the CAA. SCAG found a small number of candidate measures that were not currently implemented in the region and not included in the prior 2012 AQMP TCM RACM analysis. Attachment A (“Committed Transportation Control Measures (TCMs)”) to Appendix IV–C of the 2016 AQMP lists the TCM projects that are specifically identified and committed to in the 2016 AQMP. The complete listing of all candidate measures evaluated for the RACM determination is included in Attachment B (“2016 South Coast AQMP Reasonably Available Control Measures (RACM) Analysis—TCMs”) to

⁶⁷ Los Angeles County Metropolitan Transportation Authority, Riverside County Transportation Commission, Orange County Transportation Authority, and the San Bernardino County Transportation Authority (formerly known as the San Bernardino Associated Governments).

⁶⁸ Appendix IV–C, page IV–C–1.

⁶⁹ The specific nonattainment area SIPs that were reviewed for candidate TCMs are listed in Table 8 of Appendix IV–C of the 2016 AQMP.

Appendix IV–C of the 2016 AQMP. Based on its comprehensive review of TCM projects in other nonattainment areas or otherwise identified, SCAG determined that the TCMs being implemented in the South Coast are inclusive of all RACM.⁷⁰

c. CARB's RACM Analysis

CARB's RACM analysis is contained in Attachment VI–A–3 (“California Mobile Source Control Program Best Available Control Measures/Reasonably Available Control Measures Assessment”) (“BACM/RACM Assessment”) to Appendix VI–A of the 2016 AQMP. CARB's BACM/RACM assessment provides a general description of CARB's existing mobile source programs. A more detailed description of CARB's mobile source control program, including a comprehensive table listing on- and off-road mobile source regulatory actions taken by CARB since 1985, is contained in Attachment VI–C–1 to Appendix VI–C of the 2016 AQMP. The BACM/RACM assessment and 2016 State Strategy collectively contain CARB's evaluation of mobile source and other statewide control measures that reduce emissions of NO_x and VOC in the South Coast. The 2016 State Strategy includes a commitment consisting of two components: A commitment to bring to the CARB Board, or otherwise take action on, certain defined new measures; and a commitment to achieve aggregate emissions reductions by specific dates.⁷¹

Source categories for which CARB has primary responsibility for reducing emissions in California include most new and existing on- and off-road engines and vehicles, motor vehicle fuels, and consumer products. CARB developed its 2016 State Strategy through a multi-step measure development process, including extensive public consultation, to develop and evaluate potential strategies for mobile source categories under CARB's regulatory authority that could contribute to expeditious attainment of the standard.⁷² Through the process of developing the 2016 State Strategy, CARB identified certain defined measures as available to achieve additional VOC and NO_x emissions reductions from sources under CARB jurisdiction, including tighter requirements for new light- and medium-duty vehicles (referred to as the

“Advanced Clean Cars 2” measure), a low-NO_x engine standard for vehicles with new heavy-duty engines, tighter emissions standards for small off-road engines, and more stringent requirements for consumer products, among others.⁷³ In adopting the 2016 State Strategy, CARB commits to bringing the defined measures to the CARB Board for action according to the specific schedule included as part of the strategy.⁷⁴

Given the need for substantial emissions reductions from mobile and area sources to meet the NAAQS in California nonattainment areas, CARB has been a leader in the development of stringent control measures for on-road and off-road mobile sources and the fuels that power them. California has unique authority under CAA section 209 (subject to a waiver by the EPA) to adopt and implement new emission standards for many categories of on-road vehicles and engines, and new and in-use off-road vehicles and engines.

Historically, the EPA has allowed California to take into account emissions reductions from CARB regulations for which the EPA has issued waiver or authorizations under CAA section 209, notwithstanding the fact that these regulations have not been approved as part of the California SIP. However, in response to the decision by the United States Court of Appeals for the Ninth Circuit (“Ninth Circuit”) in *Committee for a Better Arvin v. EPA*, the EPA has since approved mobile source regulations for which waiver authorizations have been issued as revisions to the California SIP.⁷⁵

CARB's mobile source program extends beyond regulations that are subject to the waiver or authorization process set forth in CAA section 209 to include standards and other requirements to control emissions from in-use heavy-duty trucks and buses, gasoline and diesel fuel specifications, and many other types of mobile sources. Generally, these regulations have been submitted and approved as revisions to the California SIP.⁷⁶

⁷⁰ 2016 State Strategy, chapter 4 (“State SIP Measures”).

⁷⁴ CARB Resolution 17–7 (dated March 23, 2017), 7.

⁷⁵ See, e.g., 81 FR 39424 (June 16, 2016), 82 FR 14447 (March 21, 2017), and 83 FR 8404 (February 27, 2018). See also *Committee for a Better Arvin*, 786 F.3d 1169 (9th Cir. 2015).

⁷⁶ See, e.g., the EPA's approval of standards and other requirements to control emissions from in-use heavy-duty diesel-powered trucks, at 77 FR 20308 (April 4, 2012), revisions to the California on-road reformulated gasoline and diesel fuel regulations at 75 FR 26653 (May 12, 2010), and revisions to the California motor vehicle inspection and maintenance program at 75 FR 38023 (July 1, 2010).

In the BACM/RACM Assessment, CARB concludes that, in light of the extensive public process culminating in the 2016 State Strategy, with the current mobile source program and proposed measures included in the 2016 State Strategy, there are no additional RACM that would advance attainment of the 2008 ozone NAAQS in the South Coast. As a result, CARB concludes that California's mobile source programs fully meet the RACM requirement.⁷⁷

3. The EPA's Review of the State's Submission

As described above, the District already implements many rules to reduce VOC and NO_x emissions from stationary sources in the South Coast. For the 2016 AQMP, the District evaluated a range of potentially available measures and committed to adopt certain additional measures it found to be reasonably available for implementation in the South Coast nonattainment area (specifically, control measures CMB–02, CMB–03 and BCM–10). We find that the process followed by the District in the 2016 AQMP to identify additional RACM is generally consistent with the EPA's recommendations in the General Preamble, that the District's evaluation of potential measures to be appropriate, and that the District has provided reasoned justifications for rejection of measures deemed not reasonably available.

With respect to mobile sources, CARB's current program addresses the full range of mobile sources in the South Coast through regulatory programs for both new and in-use vehicles. Moreover, we find that the process conducted by CARB to prepare the 2016 State Strategy was reasonably designed to identify additional available measures within CARB's jurisdiction, and that CARB has adopted those measures that are reasonably available (such as the low-NO_x heavy-duty engine standard, among others). With respect to TCMs, we find that SCAG's process for identifying additional TCM RACM and conclusion that the TCMs being implemented in the South Coast (*i.e.*, the TCMs listed in Attachment A to Appendix IV–C of the 2016 AQMP) are inclusive of all TCM RACM to be reasonably justified and supported.

Based on our review of these RACM analyses and the District's and CARB's adopted rules, as well as the District's and CARB's commitments in the 2016 AQMP and 2016 State Strategy, respectively, to adopt and implement

⁷⁷ Appendix VI–A, Attachment VI–A–3, page VI–A–106.

⁷⁰ Appendix IV–C, page IV–C–30.

⁷¹ 2016 State Strategy, Chapter 3 (“Proposed SIP Commitment”), 26.

⁷² Appendix VI–A, Attachment VI–A–3, page VI–A–102.

additional control measures, we propose to find that there are, at this time, no additional RACM (including RACT) that would advance attainment of the 2008 ozone NAAQS in the South Coast. For the foregoing reasons, we propose to find that the 2016 South Coast Ozone SIP provides for the implementation of all RACM as required by CAA section 172(c)(1) and 40 CFR 51.1112(c).

D. Attainment Demonstration

1. Statutory and Regulatory Requirements

An attainment demonstration consists of: (1) Technical analyses, such as base year and future year modeling, to locate and identify sources of emissions that are contributing to violations of the ozone NAAQS within the nonattainment area (*i.e.*, analyses related to the emission inventory for the nonattainment area and the emissions reductions necessary to attain the standard); (2) a list of adopted measures (including RACT controls) with schedules for implementation and other means and techniques necessary and appropriate for demonstrating RFP and attainment as expeditiously as practicable but no later than the outside attainment date for the area's classification; (3) a RACM analysis; and (4) contingency measures required under sections 172(c)(9) and 182(c)(9) of the CAA that can be implemented without further action by the state or the EPA to cover emissions shortfalls in RFP plans and failures to attain.⁷⁸ This subsection of today's proposed rule addresses the first two components of the attainment demonstration—the technical analyses and a list of adopted measures. Section III.C (Reasonably Available Control Measures Demonstration and Control Technology) of this document addresses the RACM component, and section III.G (Contingency Measures) addresses the contingency measures component of the attainment demonstration in the 2016 South Coast Ozone SIP.

With respect to the technical analyses, section 182(c)(2)(A) of the CAA requires that a plan for an ozone nonattainment area classified Serious or above include a “demonstration that the plan . . . will provide for attainment of the ozone [NAAQS] by the applicable attainment date. This attainment demonstration must be based on photochemical grid modeling or any other analytical method determined . . . to be at least as effective.” The attainment demonstration predicts future ambient

concentrations for comparison to the NAAQS, making use of available information on measured concentrations, meteorology, and current and projected emissions inventories of ozone precursors, including the effect of control measures in the plan.

Areas classified Extreme for the 2008 ozone NAAQS must demonstrate attainment as expeditiously as practicable, but no later than 20 years after the effective date of designation to nonattainment. The South Coast was designated nonattainment effective July 20, 2012, and the area must demonstrate attainment of the standards by July 20, 2032.⁷⁹ An attainment demonstration must show attainment of the standards for a full calendar year before the attainment date, so in practice, Extreme nonattainment areas must demonstrate attainment in 2031.

The EPA's recommended procedures for modeling ozone as part of an attainment demonstration are contained in “Modeling Guidance for Demonstrating Attainment of Air Quality Goals for Ozone, PM_{2.5}, and Regional Haze” (“Modeling Guidance”).⁸⁰ The Modeling Guidance includes recommendations for a modeling protocol, model input preparation, model performance evaluation, use of model output for the numerical NAAQS attainment test, and modeling documentation. Air quality modeling is performed using meteorology and emissions from a base year, and the predicted concentrations from this base case modeling are compared to air quality monitoring data from that year to evaluate model performance.

Once the model performance is determined to be acceptable, future year emissions are simulated with the model. The relative (or percent) change in modeled concentration due to future emissions reductions provides a Relative Response Factor (RRF). Each monitoring site's RRF is applied to its monitored base year design value to provide the future design value for comparison to the NAAQS. The

⁷⁹ 80 FR 12264.

⁸⁰ Modeling Guidance, December 2014 Draft, EPA OAQPS; available at <https://www.epa.gov/scram/state-implementation-plan-sip-attainment-demonstration-guidance>. The 2014 modeling guidance updates, but is largely consistent with, the earlier “Guidance on the Use of Models and Other Analyses for Demonstrating Attainment of Air Quality Goals for the 8-Hour Ozone and PM_{2.5} NAAQS and Regional Haze,” EPA-454/B-07-002, April 2007. Additional EPA modeling guidance can be found in 40 CFR 51 Appendix W, “Guideline on Air Quality Models,” 82 FR 5182 (January 17, 2017); available at <https://www.epa.gov/scram/clean-air-act-permit-modeling-guidance>.

Modeling Guidance also recommends supplemental air quality analyses, which may be used as part of a Weight of Evidence (WOE) analysis. A WOE analysis corroborates the attainment demonstration by considering evidence other than the main air quality modeling attainment test, such as trends and additional monitoring and modeling analyses.

The Modeling Guidance also does not require a particular year to be used as the base year for 8-hour ozone plans.⁸¹ The Modeling Guidance states that the most recent year of the National Emissions Inventory may be appropriate for use as the base year for modeling, but that other years may be more appropriate when considering meteorology, transport patterns, exceptional events, or other factors that may vary from year to year.⁸² Therefore, the base year used for the attainment demonstration need not be the same year used to meet the requirements for emissions inventories and RFP.

With respect to the list of adopted measures, CAA section 172(c)(6) requires that nonattainment area plans include enforceable emission limitations, and such other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emission rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for timely attainment of the NAAQS.⁸³ Under the 2008 Ozone SRR, all control measures needed for attainment must be implemented no later than the beginning of the attainment year ozone season.⁸⁴ The attainment year ozone season is defined as the ozone season immediately preceding a nonattainment area's maximum attainment date.⁸⁵

2. Summary of the State's Submission

a. Photochemical Modeling

The 2016 South Coast Ozone SIP updates the photochemical modeling for the 1-hour ozone NAAQS and the 1997 ozone NAAQS and includes photochemical modeling for the 2008 ozone NAAQS. The SCAQMD performed the air quality modeling for the 2016 South Coast Ozone SIP. The modeling relies on a 2012 base year and demonstrates attainment of the 1-hour ozone NAAQS in 2022, the 1997 ozone NAAQS in 2023, and the 2008 ozone NAAQS in 2031.

⁸¹ Modeling Guidance at section 2.7.1.

⁸² *Ibid.*

⁸³ See also CAA section 110(a)(2)(A).

⁸⁴ 40 CFR 51.1108(d).

⁸⁵ 40 CFR 51.1100(h).

⁷⁸ 78 FR 34178, at 34184 (June 6, 2013) (proposed rule for implementing the 2008 ozone NAAQS).

As a general matter, the modeling for the 2016 South Coast Ozone SIP represents an update to the photochemical modeling performed for the EPA-approved 2012 AQMP to account for more recent satellite-based input data, improved chemical gaseous and particulate mechanisms, improved computational resources and post-processing utilities, enhanced spatial and temporal allocations of the emissions inventory, and a revised attainment demonstration methodology. The modeling and modeled attainment demonstration are described in Chapter 5 (“Future Air Quality”) of the 2016 AQMP and in the 1-Hour Ozone Update. Appendix V (“Modeling and Attainment Demonstration”) of the 2016 AQMP provides a description of model input preparation procedures, various model configuration options, and model performance statistics. The modeling protocol is in Chapter 2 (“Modeling Protocol”) of Appendix V of the 2016 AQMP and contains all the elements recommended in the Modeling Guidance. Those include: Selection of model, time period to model, modeling domain, and model boundary conditions and initialization procedures; a discussion of emissions inventory development and other model input preparation procedures; model performance evaluation procedures; selection of days; and other details for calculating RRFs. Appendix V of the 2016 AQMP provides the coordinates of the modeling domain and thoroughly describes the development of the modeling emissions inventory, including its chemical speciation, its spatial and temporal allocation, its temperature dependence, and quality assurance procedures.

The modeling analysis used version 5.0.2 of the Community Multiscale Air Quality (CMAQ) photochemical model, developed by the EPA. To prepare meteorological input for CMAQ, the Weather and Research Forecasting model version 3.6 (WRF) from the National Center for Atmospheric Research was used. CMAQ and WRF are both recognized in the Modeling Guidance as technically sound, state-of-the-art models. The areal extent and the horizontal and vertical resolution used in these models were adequate for modeling South Coast ozone.

The WRF meteorological model results and performance statistics are described in Chapter 3 (“Meteorological Modeling and Sensitivity Analyses”) of Appendix V. The District evaluated the performance of the WRF model through a series of simulations and concluded that the daily WRF simulation for 2012 provided representative meteorological

fields that well characterized the observed conditions. The District’s conclusions were supported by hourly time series graphs of wind speed, direction, and temperature for the South Coast included as Attachment 1 (“WRF Model Performance Time Series”) to Appendix V.

Ozone model performance statistics are described in the 2016 AQMP Appendix V, Chapter 5 (“8-Hour Ozone Attainment Demonstration”) and Chapter 8 (“1-Hour Ozone Attainment Demonstration”), which include tables of statistics recommended in the Modeling Guidance for 8-hour and 1-hour daily maximum ozone for the South Coast sub-regions (including the coastal, San Fernando, foothills, urban source, urban receptor, and Coachella Valley zones). Hourly time series are presented as well as density scatter plots, and plots of bias against concentration. Note that, because only relative changes are used from the modeling, the underprediction of absolute ozone concentrations does not mean that future concentrations will be underestimated.

After model performance for the 2012 base case was accepted, the model was applied to develop RRFs for the attainment demonstration. This entailed running the model with the same meteorological inputs as before, but with adjusted emissions inventories to reflect the expected changes between 2012 and the 2022, 2023, and 2031 attainment years. The base year or “reference year” modeling inventory was the same as the inventory for the modeling base case. The 2022, 2023, and 2031 inventory projects the base year into the future by including the effect of economic growth and emissions control measures. The set of 153 days from May 1 through September 30, 2012 was simulated and analyzed to determine daily 1-hour average and 8-hour average maximum ozone concentrations for the 2012, 2022, 2023, and 2031 emissions inventories. To develop the RRFs for the two 8-hour ozone NAAQS, only the top 10 days were used, consistent with EPA guidance; for the 1-hour ozone NAAQS, only the top 3 days were used.

The Modeling Guidance addresses attainment demonstrations with ozone NAAQS based on 8-hour averages but does not address attainment demonstrations for the 1-hour ozone NAAQS. For the 1997 and 2008 ozone NAAQS, the 2016 AQMP carried out the attainment test procedure consistent with the Modeling Guidance. For the 1-hour ozone NAAQS, the District adapted the procedures from the Modeling Guidance with certain

modifications intended to address the differences between the form of the 1-hour ozone NAAQS (*i.e.*, expected number of exceedances of the 1-hour ozone NAAQS) and the form of the 8-hour ozone standards (fourth highest daily maximum 8-hour average). The RRFs were calculated as the ratio of future to base year concentrations. The resulting RRFs were then applied to 2012 weighted base year design values⁸⁶ for each monitor to arrive at 2022, 2023, and 2031 future year design values.⁸⁷ The highest 2022 ozone design value is 0.123 ppm at the Fontana site; this value demonstrates attainment of the 1-hour ozone NAAQS of 0.12 ppm. For the 1997 ozone NAAQS, the 2023 ozone design value is 0.084 ppm also at the Fontana site; this value demonstrates attainment with the corresponding 1997 ozone NAAQS of 0.085 ppm. The highest 2031 ozone design value is 0.075 ppm also at the Fontana site; this value demonstrates attainment of the corresponding 2008 ozone NAAQS of 0.075 ppm.

The 2016 AQMP modeling includes a weight of evidence demonstration, based on a model performance evaluation of the temporal profile of on-road mobile source emissions and spatial surrogate profiles of area emissions.⁸⁸ The 1-Hour Ozone Update includes a weight of evidence demonstration for the 1-hour ozone NAAQS.⁸⁹ The demonstration is based on a sensitivity analysis of four scenarios of emission reductions.

Finally, the 2016 AQMP includes an “Unmonitored Area Analysis” for the 8-hour ozone NAAQS to assess the attainment status of locations other than monitoring sites.⁹⁰ The Modeling Guidance describes a “gradient adjusted spatial fields” procedure along with the EPA software (*i.e.*, Modeled Attainment Test Software) used to carry it out.⁹¹ The 2016 AQMP and 1-Hour Ozone Update show concentrations below the NAAQS for all locations.⁹² This analysis adds assurance to the attainment demonstrations that all locations in the

⁸⁶ The Modeling Guidance recommends that RRFs be applied to the average of three three-year design values centered on the base year, in this case the design values for 2010–2012, 2011–2013, and 2012–2014. This amounts to a 5-year weighted average of individual year 4th high concentrations, centered on the base year of 2012, and so is referred to as a weighted design value.

⁸⁷ 2016 AQMP, Table 5–2; 1-Hour Ozone Update, Table 4.

⁸⁸ Appendix V of 2016 AQMP, pages V–5–36–V–5–41.

⁸⁹ 1-Hour Ozone Update, 12.

⁹⁰ Appendix V of 2016 AQMP, pages V–5–28–V–5–35.

⁹¹ Modeling Guidance, section 4.7.

⁹² 2016 Ozone Plan, Figure 5–7, and 1-Hour Ozone Update, Figure 3.

South Coast will attain the 1-hour ozone NAAQS by 2022, the 1997 ozone NAAQS by 2023, and the 2008 ozone NAAQS by 2031.

b. Control Strategy for Attainment

The control strategy for attainment of the 1-hour ozone NAAQS, the 1997 ozone NAAQS, and the 2008 ozone NAAQS in the 2016 South Coast Ozone SIP relies on emissions reductions from already-adopted measures, commitments by the District to certain regulatory and nonregulatory initiatives and aggregate emission reductions, and commitments by CARB to certain regulatory and nonregulatory initiatives and aggregate emission reductions. Generally, the bulk of the emissions reductions on which the control strategies rely is expected to come from already-adopted measures, which are discussed in section III.C of this document. For the 1-hour ozone NAAQS, 1997 ozone NAAQS, and the 2008 ozone NAAQS, already-adopted measures are expected to achieve approximately 92 percent, 66 percent, and 67 percent of the reductions needed, respectively, from the 2012 base year to attain the NAAQS in 2022 (1-hour ozone NAAQS), 2023 (1997 ozone NAAQS) and 2031 (2008 ozone NAAQS). However, because already-adopted measures will not provide for attainment of the ozone NAAQS, the 2016 South Coast Ozone SIP includes District and CARB commitments to achieve additional emissions

reductions. These commitments are discussed and evaluated in the paragraphs that follow.

i. District's Aggregate Emission Reduction Commitments

The District has primary responsibility in the South Coast for the regulation of stationary and certain types of area sources. The District has more limited authority with respect to mobile sources but is authorized to implement various programs, such as incentive programs, to reduce emissions from such sources as well. The District has made various commitments in previous plans as part of the attainment strategies to achieve the 1-hour ozone NAAQS and the 1997 ozone NAAQS.

Through adoption of the 2016 AQMP, the District is updating its previously-approved aggregate emissions reduction commitments made as part of the attainment demonstrations for the 1997 ozone NAAQS (by 2023) in the 2007 South Coast Ozone SIP and for the 1-hour ozone NAAQS (by 2022) in the 2012 AQMP; the District is also adopting aggregate emissions reduction commitments for the attainment demonstration for the 2008 ozone NAAQS. The District's commitments in the 2016 AQMP are similar in concept to those that were made in connection with the previously approved plans.

More specifically, through adoption of the 2016 AQMP, the District has committed to develop, adopt, submit, and implement the ozone measures

listed in tables 4–2 (stationary source ozone measures) and 4–4 (mobile source ozone measures) in Chapter 4 of the 2016 AQMP to meet or exceed the emissions reduction commitments in tables 4–9 (1-hour ozone NAAQS), 4–10 (1997 ozone NAAQS) and 4–11 (2008 ozone NAAQS).⁹³

In Table 2 below, we show the District's updated aggregate emissions reduction commitments from the 2016 AQMP with the corresponding commitments from the 2007 South Coast Ozone SIP and the 2012 AQMP. The District's commitments from the 2016 AQMP are, in concept, the same as the District's commitments that the EPA has approved as part of the attainment demonstrations in the 2007 South Coast Ozone SIP and the 2012 AQMP. In short, the District has committed to develop, adopt, submit and implement the specific measures listed in tables 4–2 and 4–4 of the 2016 AQMP on the adoption and implementation schedule set forth in those tables to meet or exceed the aggregate emissions reductions commitments. However, as with the earlier plans, the 2016 AQMP provides for a public process through which the District may substitute measures in tables 4–2 and 4–4 with other measures, provided that the overall equivalent emissions reductions by the adoption and implementation dates are maintained and that the applicable measure in table 4–2 or 4–4 is deemed by the District to be infeasible.⁹⁴

TABLE 2—DISTRICT AGGREGATE EMISSION REDUCTION COMMITMENTS
[Summer planning inventory, tpd]

Plan	Year 2022		Year 2023		Year 2031	
	NO _x	VOC	NO _x	VOC	NO _x	VOC
2007 South Coast Ozone SIP ^a	--	--	9.2	19.3	--	--
2012 AQMP ^b	10.7	5.8	11.0	6.0	--	--
2016 AQMP ^c	20.6	6.1	23.0	6.4	31.0	9.6

^a 2007 AQMP, Table 4–2A, as revised by Appendix F of the 2011 Progress Report—see 77 FR 12674, 12691 (March 1, 2012). Reductions are from the 2002 base year. The double-dash mark (“--”) indicates that no commitment was made for a given year in a given plan.

^b SCAQMD, Resolution 12–19 (December 7, 2012), 7–8; Table 4–11 of the 2012 AQMP; and 79 FR 29712, 29720 (May 23, 2014). Reductions are from the 2008 base year. The double-dash mark (“--”) indicates that no commitment was made for a given year in a given plan.

^c 2016 AQMP, tables 4–9, 4–10 and 4–11. Reductions are from the 2012 base year.

As noted above, the District expects to meet its emissions reduction commitments for NO_x and VOC by adopting new control measures and programs and strengthening existing control measures, as identified in tables 4–2 and 4–4 of the 2016 AQMP. These new or revised stationary control measures include stationary source regulatory measures, measures that

recognize emissions reductions from energy and climate change-related programs, voluntary incentive measures, and other miscellaneous measures. In Table 3 below, we have combined the District's new stationary and mobile measures listed in tables 4–2 and 4–4 of the 2016 AQMP into a single table but only list those measures for which the District provides estimates of associated

emissions reductions. The emissions reductions for individual measures shown in Table 3 are not intended to be enforceable but are estimates prepared by the District to show how the District expects at the present time to achieve the aggregate emissions reductions for 2022, 2023, and 2031. The enforceable components of the District's commitments are to effectuate the

⁹³ SCAQMD, Resolution 17–2 (March 3, 2017), 9.

⁹⁴ 2016 AQMP, pages 4–52–4–55.

measures to which it has committed on the schedule that it has adopted, and to achieve the aggregate emissions reductions by the given years.

TABLE 3—DISTRICT STATIONARY AND MOBILE SOURCE MEASURES

Number	Title	Adoption	Implementation period	NO _x emission reductions (tpd)			VOC emission reductions (tpd)		
				2022	2023	2031	2022	2023	2031
CMB-01	Transition to Zero and Near-Zero Emission Technologies for Stationary Sources.	2018	Ongoing	^a 2.2	2.5	6.0	^a 1.0	^c 1.2	^c 2.8
CMB-02	Emission Reductions from Replacement with Zero or Near-Zero NO _x Appliances in Commercial and Residential Applications.	2018	2020–2031	1.1	1.1	2.8			
CMB-03	Emission Reductions from Non-Refinery Flares.	2018	2020	1.4	1.4	1.5	0.4	^c 0.4	^c 0.4
CMB-04	Emission Reductions from Restaurant Burners and Residential Cooking.	2018	2022	0.8	0.8	1.6			
CMB-05	Further NO _x Reductions from RECLAIM Assessment.	2022	2025		0	^b 5.0			
BCM-10	Emission Reductions from Greenwaste Composting.	2019	2020				1.5	1.5	1.8
FUG-01	Improved Leak Detection and Repair ...	2019	2022				2.0	2.0	2.0
CTS-01	Further Emission Reductions from Coatings, Solvents, Adhesives, and Sealants.	2017/2021	2020–2031				1.0	1.0	2.0
ECC-02	Co-Benefits from Existing Residential and Commercial Building Energy Efficiency Measures.	2018	Ongoing	^a 0.3	0.3	1.1	^a ^c 0.1	^c 0.1	^c 0.3
ECC-03	Additional Enhancements in Reducing Existing Residential Building Energy Use.	2018	Ongoing	^a 1.0	1.2	2.1	^a ^c 0.2	^c 0.2	^c 0.3
Stationary Sources Totals				6.7	7.3	20.1	6.1	6.4	9.6
MOB-10	Extension of the SOON ^d Provision for Construction/Industrial Equipment.	NA	Ongoing	1.9	1.9	1.9			
MOB-11	Extended Exchange Program	NA	Ongoing	^a 2.5	2.9	1.0			
MOB-14	Emission Reductions from Incentive Programs.	NA	2016–2024	^a 9.5	11	7.8			
Mobile Sources Totals				13.9	15.8	10.7			
Stationary and Mobile Sources Totals				20.6	23.1	30.8	6.1	6.4	9.6

Notes:
^a86 percent of 2023 reductions planned for the control measures.
^b5 tpd reduction by 2025.
^cCorresponding VOC reductions from other measures.
^dSurplus Off-Road Opt-In for NO_x Program.
 The sum of the emissions values may not equal the total shown due to rounding of the numbers.
 Source: 2016 AQMP, tables 4–2, 4–4, 4–9, 4–10 and 4–11.

There are several “Further Deployment of Cleaner Technologies” measures (also referred to in today’s action as “new technology” measures) in the 2016 State Strategy that identify the SCAQMD as an implementing agency, along with CARB and the EPA. CARB indicated that the implementation of the new technology measures is based on a combination of incentive funding, development of regulations, and quantification of emissions reduction benefits from operational efficiency actions and deployment of autonomous vehicles, connected vehicles, and intelligent transportation systems. The District has proposed numerous mobile source measures to further the implementation of CARB’s new technology measures. These include proposals to continue several existing incentive programs (e.g., the Carl Moyer Memorial Air Quality

Standards Attainment Program, the Surplus Off-Road Opt-In for NO_x Program, and Proposition 1B—Goods Movement Emissions Reduction Program). In the 2016 AQMP, the District includes 15 mobile source measures to reduce VOC and NO_x emissions. With the exception of measures MOB–10, 11, and 14, the District has not yet quantified or assigned future reductions to their mobile source measures.⁹⁵ Other proposed District stationary and mobile sources measures⁹⁶ with future

⁹⁵ 2016 AQMP, Table 4–4.
⁹⁶ All measures to be implemented by SCAQMD except: ECC–01 (various agencies); FLX–01 (SCAQMD and other parties); MOB–5, MOB–7, MOB–8, and MOB–9 (SCAQMD and CARB); MOB–6 (CARB, Bureau of Automotive Repair (BAR), SCAQMD), and MOB–12 (SoCal Regional Rail Authority).

reductions not yet quantified include the following.

- Stationary source measures: ECC–01, Co-Benefit Emission Reductions from Greenhouse Gas (GHG) Programs, Policies, and Incentives; FLX–01, Improved Education and Public Outreach; FLX–02, Stationary Source VOC Incentives; MCS–01, Improved Breakdown Procedures and Process Re-Design; MCS–02, Application of All Feasible Measures; and ECC–04, Reduced Ozone Formation and Emission Reductions from Cool Roof Technology.
- Mobiles source measures: EGM–01, Emission Reductions from New Development and Redevelopment Projects; MOB–01, Emission Reductions at Commercial Marine Ports; MOB–02, Emission Reductions at Rail Yards and Intermodal Facilities; MOB–03, Emission Reductions at Warehouse

Distribution Centers; MOB-04, Emission Reductions at Commercial Airports; MOB-05, Penetration of Partial Zero-Emission and Zero-Emission Vehicles; MOB-06, Accelerated Retirement of Older Light-Duty and Medium-Duty Vehicles; MOB-07, Accelerated Penetration of Partial Zero-Emission and Zero-Emission Light-Heavy- and Medium-Heavy-Duty Vehicles; MOB-08, Accelerated Retirement of Older On-Road Heavy-Duty Vehicles; MOB-09, On-Road Mobile Source Emission Reduction Credit Generation Program; MOB-12, Further Emission Reductions from Passenger Locomotives; and MOB-13, Off-Road Mobile Source Emission Reduction Credit Generation Program.

ii. CARB Aggregate Emissions Reduction Commitments

Source categories for which CARB has primary responsibility for reducing emissions in California include most new and existing on- and off-road engines and vehicles, motor vehicle fuels, and consumer products. CARB's 2016 State Strategy includes a comprehensive set of measures to achieve emissions reductions needed in the South Coast from mobile sources and consumer products. The measures in the 2016 State Strategy identify the regulatory and programmatic approaches necessary to deploy cleaner technologies and ensure sufficient penetration to meet the NAAQS deadlines. The measures in the 2016 State Strategy include technology-forcing engine standards, cleaner burning fuels, durability requirements and inspection programs to ensure clean in-use performance, sales requirements for advanced technologies, pilot programs to identify and advance new technologies, and incentive programs to accelerate technology deployment.

To be more specific, the 2016 State Strategy includes actions to increase the penetration of plug-in hybrid electric vehicles and zero-emission vehicles (ZEVs) in the light-duty vehicle sector. For heavy-duty vehicles, the 2016 State Strategy includes combustion engine technology that is effectively 90 percent

cleaner than current standards. The 2016 State Strategy also includes targeted introduction of zero-emission technologies in heavy-duty applications that are suited to early adoption of ZEV technologies. The 2016 State Strategy includes a California action to establish new low-NO_x certification requirements, coupled with in-use performance requirements. The strategy also provides greater certification flexibility for advanced technologies. The measures could reduce emissions from today's heavy-duty trucks by up to 90 percent. Because trucks licensed outside of California account for a large portion of truck activity in California, the 2016 State Strategy calls for the EPA to develop a national low-NO_x engine standard and cites formal petitions for such rulemaking that have been submitted by several California air districts. In response to the petitions, on November 13, 2018, the EPA announced the Cleaner Trucks Initiative, a future rulemaking to update NO_x standards for highway heavy-duty trucks and engines.⁹⁷

The 2016 State Strategy includes similar proposed actions for off-road sources, with a focus on deployment of ZEV technologies in smaller equipment types such as forklifts and airport ground support equipment. A low-emission diesel standard builds upon CARB's existing fuels framework by requiring that low-emission diesel fuels to be used to achieve greater criteria pollutant reductions. For sources that are primarily under federal jurisdiction, such as interstate trucks, locomotives, and ocean-going vessels, the 2016 State Strategy calls for EPA action to provide the needed emission reductions from these sources by setting more stringent engine standards. Lastly, the 2016 State Strategy contains a measure to address VOC emissions from consumer products, the largest source category of VOCs in California. Chapter 4 ("State SIP Measures") of the 2016 State Strategy provides a detailed description of the various measures included in the 2016 State Strategy, background and regulatory history for the measures, a

description of the specific proposed actions to be taken and timing for those actions, an estimate of the related emissions reductions, and the specific SIP commitment by CARB with respect to each of the measures.

Through adoption of the 2016 State Strategy, CARB is updating its previously-approved aggregate emissions reduction commitments made as part of the attainment demonstration for the 1997 ozone NAAQS (by 2023) in the 2007 South Coast Ozone SIP, and CARB is adopting aggregate emissions reduction commitments for the attainment demonstration for the 2008 ozone NAAQS. CARB's commitments in the 2016 State Strategy are similar in concept to those that were made in connection with the previously approved plan.

More specifically, through adoption of the 2016 State Strategy, CARB has committed to bring to its Board for consideration the list of measures contained in Attachment A to CARB Resolution 17-7 according to the schedule set forth in Attachment A, and to achieve aggregate emissions reductions of 113 tpd of NO_x and 50 to 51 tpd of VOC by 2023, and 111 tpd of NO_x and 59 to 60 tpd of VOC by 2031 in the South Coast.⁹⁸

In Table 4, below, we show CARB's updated aggregate emissions reduction commitments from the 2016 State Strategy with the corresponding commitments from the 2007 South Coast Ozone SIP for the 1997 ozone NAAQS and from the 2012 AQMP for the 1-hour ozone NAAQS. CARB's commitments from the 2016 State Strategy are, in concept, similar to CARB's commitments that the EPA has approved as part of the attainment demonstrations in the 2007 South Coast Ozone SIP and 2012 AQMP. As with the earlier plans, the 2016 State Strategy includes estimates of the emissions reductions from each of the individual new measures, but CARB's overall commitment is to achieve the total emission reductions necessary to attain the NAAQS.

TABLE 4—CARB AGGREGATE EMISSION REDUCTION COMMITMENTS
[Summer planning inventory, tpd]

Plan	Year 2022		Year 2023		Year 2031	
	NO _x	VOC	NO _x	VOC	NO _x	VOC
2007 South Coast Ozone SIP ^a :						
Defined Measures	--	--	141	54	--	--
New Technology Measures	--	--	241	40	--	--

⁹⁷ See <https://www.epa.gov/regulations-emissions-vehicles-and-engines/cleaner-truck-initiative>.

⁹⁸ CARB, Resolution 17-7 (March 23, 2017), 7.

TABLE 4—CARB AGGREGATE EMISSION REDUCTION COMMITMENTS—Continued
[Summer planning inventory, tpd]

Plan	Year 2022		Year 2023		Year 2031	
	NO _x	VOC	NO _x	VOC	NO _x	VOC
2012 AQMP ^b :						
Defined Measures	--	--	--	--	--	--
New Technology Measures	150	17	--	--	--	--
2016 South Coast Ozone SIP ^c :						
Defined and New Technology Measures	0	0	113	50–51	111	59–60

^a2009 State Strategy Update, 20; also see 76 FR 57872, 57882 (September 16, 2011). Reductions are from the 2002 base year. The double-dash mark (“--”) indicates that no commitment was made for a given year in a given plan.

^b2012 AQMP, appendix VII, page VII–46; CARB Resolution 13–3 (January 25, 2013); and letter from Richard W. Cory, Executive Officer, CARB, to Jared Blumenfeld, Regional Administrator, EPA Region IX, dated May 2, 2014. Reductions are from the 2008 base year. The double-dash mark (“--”) indicates that no commitment was made for a given year in a given plan.

^c2016 State Strategy, Table 4, and CARB Resolution 17–7 (March 23, 2017). Reductions are from the 2012 base year.

For previous South Coast ozone plans, CARB’s aggregate emissions reduction commitments distinguished between those that were to be achieved through adoption and implementation of defined measures and those that were to be achieved through “new technology” measures. In this case, “new technology” measures refer to provisions in an ozone plan for an

Extreme area that anticipate development of new control techniques or improvement of existing control technologies as provided for in CAA section 182(e)(5). For the 2016 South Coast Ozone SIP, CARB’s aggregate emissions reduction commitments include both types of measures. However, CARB also identifies new technology measures for which it is

requesting approval by the EPA under CAA section 182(e)(5). Table 5 below divides CARB’s estimates of emissions reductions between new technology measures (*i.e.*, those identified for approval under CAA section 182(e)(5) by CARB) and the other measures (which we refer to as “defined measures.”)

TABLE 5—ESTIMATES OF EMISSIONS REDUCTIONS FROM DEFINED AND NEW TECHNOLOGY MEASURES IN THE 2016 STATE STRATEGY

[Summer planning inventory, tpd, from 2012 base year emissions]

Year	VOC			NO _x		
	Defined measures	New technology measures	Total	Defined measures	New technology measures	Total
2023	9–10	41	50–51	5	108	113
2031	21–22	37	59–60	14	97	111

Sources: 2016 State Strategy, Table 4. Tonnage values for defined measures determined by subtracting all the new technology measures from the total emission reduction estimate. The sum of the emissions values may not equal the total shown due to rounding of the numbers.

Table 6 below lists CARB’s defined measures and associated reductions from the 2016 State Strategy. As shown in Table 6, CARB estimates that the defined measures would reduce emissions of NO_x and VOC by 5 tpd and 9–10 tpd, respectively, by 2023 and by 14 tpd and 21–22 tpd, respectively, by 2031. Table 6 includes only those CARB

defined measures for which CARB has developed emissions estimates.⁹⁹ We note that the emissions estimates shown in Table 6 are only estimates and are not binding on CARB under the terms of the commitments CARB has made for the South Coast as part of the 2016 State Strategy. Rather, CARB has committed to take certain regulatory and

nonregulatory actions according to the schedule in the 2016 State Strategy and to achieve aggregate emissions reductions by 2023 and 2031. The reductions from any one measure in Table 6 could be more or less than the estimates shown.

TABLE 6—DEFINED MEASURES IN THE 2016 STATE STRATEGY

Measure	Adoption	Implementation		NO _x emission reductions (tpd)		VOC emission reductions (tpd)	
		Time frame	Agency	2023	2031	2023	2031

⁹⁹The defined measures in the 2016 State Strategy for which future reductions are not yet quantified include: Lower In-Use Emission Performance Assessment for on-road light-duty vehicles (CARB and the California Bureau of Automotive Repair); Medium and Heavy-Duty GHG

Gas Phase 2 (CARB, EPA), Innovative Technology Certification Flexibility (CARB), and Zero-Emission Airport Shuttle Buses (CARB) for on-road heavy-duty vehicles; Incentivize Low Emission Efficient Ship Visits for ocean-going vessels (CARB); Zero-Emission Off-Road Emission Reduction Assessment

(CARB), Zero-Emission Off-Road Worksite Emission Reduction Assessment (CARB), and Transport Refrigeration Units Used for Cold Storage for off-road equipment (CARB).

TABLE 6—DEFINED MEASURES IN THE 2016 STATE STRATEGY—Continued

Measure	Adoption	Implementation		NO _x emission reductions (tpd)		VOC emission reductions (tpd)	
		Time frame	Agency	2023	2031	2023	2031
On-Road Heavy-Duty:							
Lower In-Use Emission Performance Level	2017–2020	2018+	CARB	NYQ	NYQ	<0.1	<0.1
Low-NO _x Engine Standard—California Action	2019	2023	CARB	-	5	-	-
Innovative Clean Transit	2017	2018	CARB	<0.1	0.1	<0.1	<0.1
Last Mile Delivery	2018	2020	CARB	<0.1	0.4	<0.1	<0.1
Incentive Funding to Achieve Further Emission Reductions from On-Road Heavy Duty Vehicles ^a .	ongoing	2016	CARB, SCAQMD.	3	3	0.4	0.4
Ocean-Going Vessels:							
At-Berth Regulation Amendments	2017–2018	2023	CARB	0.3	1	<0.1	<0.1
Off-Road Equipment:							
Zero-Emission Off-Road Forklift Regulation Phase 1	2020	2023	CARB	-	1	-	0.1
Zero-Emission Airport Ground Support Equipment	2018	2023	CARB	<0.1	<0.1	<0.1	<0.1
Small Off-Road Engines	2018–2020	2022	CARB	0.7	2	7	16
Low-Emission Diesel Requirement	by 2020	2023	CARB	0.3	1	NYQ	NYQ
Consumer Products:							
Consumer Products Program	2019–2021	2020 +	CARB	0	0	1–2	4–5
Total Emission Reductions	4	14	9–10	21–22			

Notes:

^a On March 22, 2018, CARB adopted the “South Coast On-Road Heavy-Duty Vehicle Incentive Measure.” On April 25, 2019, the EPA proposed to approve the measure as achieving 1 tpd of NO_x reductions in 2023. See 84 FR 17365. NYQ means not yet quantified. A dash (-) refers to de minimis reductions. The sum of the emissions values may not equal the total shown due to rounding of the numbers. Source: 2016 State Strategy, Table 4; Attachment A to CARB Resolution 17–7 (March 23, 2017).

As noted above, the 2016 State Strategy identifies certain new technology measures for which CARB is requesting approval by the EPA under the provisions of section 182(e)(5) of the CAA. The 2016 AQMP does not rely on the new technology measures in the 2016 State Strategy to demonstrate RFP, but it does rely on them for attainment of the 1997 and 2008 ozone NAAQS in the South Coast by the applicable attainment dates.

Table 7 below lists CARB’s new technology measures and associated reductions from the 2016 State Strategy. As shown in Table 7, CARB estimates that the new technology measures would reduce emissions of NO_x and VOC by 108 tpd and 41 tpd by 2023,

and 97 tpd and 37 tpd by 2031, respectively. As noted above in connection with CARB’s defined measures, the emissions estimates shown in Table 7 are only estimates and are not binding on CARB under the terms of the commitments CARB has made for the South Coast as part of the 2016 State Strategy. Rather, CARB has committed to take certain regulatory and nonregulatory actions according to the schedule in the 2016 State Strategy and to achieve aggregate emissions reductions by 2023 and 2031. CARB’s aggregate emissions reduction commitments for years 2023 and 2031 do not distinguish between the defined measures and the new technology measures. The new technology

measures in the 2016 State Strategy are accompanied by an enforceable commitment by CARB to develop, adopt and submit contingency measures by 2028 for the 2008 ozone NAAQS if the new technology measures do not achieve planned reductions, as required under CAA section 182(e)(5).¹⁰⁰ CARB’s commitment to submit contingency measures for section 182(e)(5) purposes thus relates to attainment for the 2008 ozone NAAQS. With respect to attainment for the 1997 ozone NAAQS, CARB is relying on the previously-submitted and approved commitment to submit contingency measures for section 182(e)(5) purposes from the 2007 South Coast Ozone SIP.¹⁰¹

TABLE 7—NEW TECHNOLOGY MEASURES IN 2016 STATE STRATEGY ^A

Title	Adoption	Implementation		NO _x emission reductions (tpd)		VOC emission reductions (tpd)	
		Time frame	Agency	2023	2031	2023	2031
On-Road Light-Duty:							
Further Deployment of Cleaner Technologies ^b .	ongoing	2016	CARB, SCAQMD, EPA	7	5	16	16
On-Road Heavy-Duty:							
Low-NO _x Engine Standard—Federal Action ..	2019	2024	EPA	-	7	-	-
Further Deployment of Cleaner Technologies	ongoing	2016	CARB, SCAQMD, EPA	34	11	4	1
Aircraft:							
Further Deployment of Cleaner Technologies	ongoing	2016	CARB, SCAQMD, EPA	9	13	NYQ	NYQ
Locomotives:							
More Stringent National Locomotive Emission Standards.	2017	2023	EPA	<0.1	2	<0.1	<0.1
Further Deployment of Cleaner Technologies	ongoing	2016	CARB, SCAQMD, EPA	7	3	0.3	0.3
Ocean-Going Vessels:							
Tier 4 Vessel Standards	2016–2018	2025	CARB, IMO	-	NYQ	-	NYQ

¹⁰⁰ CARB Resolution 17–8, 9.

¹⁰¹ See 76 FR 57872, 57882 (September 16, 2011) referencing CARB Resolution 11–22, July 21, 2011), and in a letter dated November 18, 2011, from

James N. Goldstene, Executive Officer, CARB, to Jared Blumenfeld, Regional Administrator, EPA Region IX.

TABLE 7—NEW TECHNOLOGY MEASURES IN 2016 STATE STRATEGY^A—Continued

Title	Adoption	Implementation		NO _x emission reductions (tpd)		VOC emission reductions (tpd)	
		Time frame	Agency	2023	2031	2023	2031
Further Deployment of Cleaner Technologies Off-Road Equipment:	ongoing	2016	CARB, SCAQMD, EPA	30	38	NYQ	NYQ
Further Deployment of Cleaner Technologies	ongoing	2016	CARB, SCAQMD, EPA	21	18	21	20
Total Emission Reductions	-	-	-	108	97	41	37

Notes:

^a CARB requested the EPA approve these measures under the provisions of section 182(e)(5) of the CAA.
^b In today's action we also refer to these as new technology measures.
 NYQ means not yet quantified. A dash (-) refers to de minimis reductions.
 The sum of the emissions values may not equal the total shown due to rounding of the numbers.
 Source: 2016 State Strategy, Table 4; Attachment A to CARB Resolution 17–7 (March 23, 2017).

In its 2016 State Strategy, CARB commits to achieving the aggregate emissions reductions needed in the South Coast for attaining the 1997 and 2008 ozone NAAQS from the defined and new technology measures. Even though the District does not have a new technology emissions reduction commitment in the 2016 AQMP, its numerous incentive programs in tables 4–2 and 4–4 of the 2016 AQMP will help advance new control technologies that will achieve long-term reductions and ultimately reduce CARB's remaining commitment for reductions in 2023 and 2031.

SCAQMD's Technology Advancement Office (TAO) is responsible for expediting the development, demonstration and commercialization of cleaner technologies and clean-burning fuels in the South Coast. TAO's mobile source projects have included development and demonstration of less-polluting automobiles, buses, trucks, construction equipment, boats, locomotives and other off-road vehicles involving advancements in engine design, improved batteries, fuel cells, and improved powertrains for electric vehicles. Other projects involve adapting or designing vehicles to run on clean fuels and developing the infrastructure needed to produce and deliver those fuels.¹⁰² TAO's projects for stationary sources have included a wide array of low-NO_x combustion systems, low-VOC coatings and processes, and clean energy production systems including fuel cells, solar power, and other renewable energy systems.¹⁰³ The technical areas currently identified by TAO as the highest priority include fuel cells for transportation and power generation; diesel alternatives; electric and hybrid-electric technologies; off-road applications of alternative fuel

technologies; VOC reduction technologies for stationary sources; and infrastructure development.¹⁰⁴

In its 2016 State Strategy, CARB builds on and updates the new technology measures in prior state strategies (e.g., the 2007 State Strategy as revised in 2009 and 2011). To implement the long-term strategy, CARB has committed to a process that will help ensure that the long-term measures are adopted and that reductions are achieved by the beginning of the last full ozone season before the attainment date. CARB is coordinating a government, private, and public effort to establish emission goals for critical mobile and stationary emission source categories. The effort includes periodic assessment of technology advancement opportunities and updates to its Board and the public regarding new emission control opportunities and progress in achieving the long-term measure reductions. CARB's commitment for implementing the long-term strategy also includes reporting back to its Board within one year of adoption of the 2016 State Strategy, and yearly thereafter.¹⁰⁵ This report will include:

1. The status of partnerships with the South Coast, San Joaquin Valley, the EPA, other government agencies, and the private sector to pursue research, demonstration, and pilot projects for further advancement of zero and near-zero emission technologies;

2. The status of the Financial Incentives Funding Action Plan, progress in identifying and implementing funding mechanisms, and status of State level incentive programs and allocation of funding to the South Coast and San Joaquin Valley regions;

3. The status of technology assessments, emerging technologies and emissions reduction opportunities. CARB staff will also report on implementation of actions identified by

the SCAQMD and San Joaquin Valley Air Pollution Control District as well as actions contained in the California Sustainable Freight Action Plan, the 2030 Target Scoping Plan Update, SB 375, and other complementary efforts and the criteria pollutant benefits that result from these actions; and

4. Recommendations on the development of further regulatory measures and schedules for development for inclusion in the SIP.¹⁰⁶

Approximately 70 percent of the reductions needed to meet the ozone standard in the South Coast in 2031 comes from existing or proposed regulatory actions. This includes ongoing implementation of the existing control program, combined with new regulatory measures identified in the 2016 State Strategy. The regulatory approach forms the core of the strategy. The remaining 30 percent of reductions is from additional efforts to enhance the deployment of cleaner technologies through new incentive or new regulatory actions. These actions will be implemented through the cleaner technologies measures for each mobile sector to provide further emissions reductions from the deployment of technologies necessary to meet the South Coast's Extreme ozone nonattainment area needs. The approaches contained in the cleaner technology measures include:

- Incentive programs to further accelerate technology penetration;
- Identification of additional regulatory approaches based on further technology assessments;
- Increased efficiency in moving people and freight;

¹⁰⁶ E.g., On March 22, 2018, CARB staff conducted a public meeting to brief the Board on substantial progress made in implementing various elements of the 2016 State Strategy and 2016 AQMP. The staff presentation can be viewed at https://www.arb.ca.gov/board/books/2018/032218/18-2-5pres.pdf?utm_medium=email&utm_source=govdelivery.

¹⁰² SCAQMD technology advancement web page at <http://yourstory.aqmd.gov/home/technology>, February 6, 2019.

¹⁰³ Id.

¹⁰⁴ Id.

¹⁰⁵ 2016 State Strategy, 46.

- Use of emerging transportation technologies, such as intelligent transportation systems and autonomous and connected vehicles; and

- Further federal actions, including support for demonstration programs, and supporting policies to achieve reductions from sources under federal and international regulatory authority.

The specific combination of approaches to achieve reductions under these cleaner technologies concepts will vary by source sector and the timing of needed reductions. Further details regarding the approach for each sector and identification of technologies are available in the measure descriptions in Chapter 4 (“State SIP Measures”) of the 2016 State Strategy.

To achieve the emission reductions from the cleaner technology measures included in the 2016 State Strategy, the

South Coast is also identifying mechanisms under its local authority to achieve emission reductions from mobile sources within the region. Given the need for emissions reductions, significant investments to support incentive programs will be critical to accelerate the penetration of the cleanest technologies in the South Coast. CARB staff has been working with SCAQMD and the EPA to identify funding strategies and ensure appropriate mechanisms are in place for an approvable SIP.

c. Attainment Demonstration

The 2016 AQMP includes a new attainment demonstration for the 2008 ozone NAAQS and updated attainment demonstrations for the 1-hour and 1997 ozone NAAQS. In December 2018, CARB submitted the 1-Hour Ozone

Update, which revises the 1-hour ozone attainment demonstration in the 2016 AQMP. Each of the attainment demonstrations includes enforceable commitments for additional reductions necessary for attainment as discussed in the previous sections. To determine the additional NO_x reductions needed, the State and District evaluated scenarios for a controlled emissions level of NO_x necessary for attainment of the ozone standards. The “controlled emissions level” represents, based on modeling scenarios and implementation of adequate control measures, the remaining attainment year NO_x inventory consistent with the modeling used to demonstrate attainment. Table 8 below summarizes the controlled emissions level of NO_x selected by the District and CARB as necessary for attainment of the ozone standards.

TABLE 8—NO_x CONTROLLED EMISSIONS LEVEL FOR OZONE ATTAINMENT

Attainment year	2022	2023	2031
Standard	1-hour Ozone	1997 Ozone ...	2008 Ozone.
Controlled Emissions Level (tpd)	269	141	96.

i. Updated Attainment Demonstration for the 1-Hour Ozone NAAQS

The 2016 AQMP updates the EPA-approved 1-hour ozone attainment demonstration from the 2012 AQMP to reflect updated emissions inventories, photochemical models and modeling techniques. In December 2018, CARB submitted to the EPA the 1-Hour Ozone Update, which revises the 1-hour ozone attainment demonstration in the 2016 AQMP to account for updated emissions inventories that were not available at the time the 1-hour ozone attainment demonstration was completed for the 2016 AQMP.

Table 9 below summarizes the updated attainment demonstration for the 1-hour ozone NAAQS by listing the

base year (2012) emissions level, the modeled attainment emissions level, and the reductions that the District has committed to achieve through adoption of the 2016 AQMP. The updated 1-hour ozone attainment demonstration does not rely on emissions reductions from the 2016 State Strategy. Also, unlike the approved 1-hour ozone attainment demonstration from the 2012 AQMP, the updated attainment demonstration does not rely on new technology measures.

As shown in Table 9, the majority of emission reductions needed for attaining the 1-hour ozone NAAQS by 2022 comes from baseline measures. These account for approximately 92 percent of the NO_x (233 tpd) and 95 percent of the VOC (113 tpd) reductions

needed for attainment of the 1-hour ozone NAAQS. The baseline measures reflect CARB rules adopted by November 2015 and District rules adopted by December 2015.¹⁰⁷ Based on the modeling analysis in the 1-Hour Ozone Update, the District determined that additional reductions of 21 tpd of NO_x and 6 tpd of VOC would be sufficient for demonstrating attainment of the 1-hour ozone NAAQS by 2022. The 2016 South Coast Ozone SIP relies on the District’s enforceable commitments to achieve aggregate emissions reductions through implementation of the measures described above in section III.D.2.b.i of this document to provide the reductions necessary to achieve the 1-hour ozone NAAQS by 2022.

TABLE 9—SUMMARY OF 1-HOUR OZONE NAAQS ATTAINMENT DEMONSTRATION

[Summer planning inventory, tpd]

	NO _x	VOC ^a
A. 2012 Base Year Emissions Level ^b	522.5	499.7
B. 2022 Attainment Year Baseline Emissions Level ^c	286.8	382.7
C. Set-Aside (Phase-Out of Toxics, General Conformity, SIP Reserve) ^c	3.1	4.5
D. 2022 Adjusted Baseline (<i>i.e.</i> , includes Set-Aside) (B + C)	289.9	387.2
E. 2022 Modeled Attainment Emissions Level ^c	269.3	381.2
F. Total Reductions Needed from 2012 Base Year Levels to Demonstrate Attainment (A–E)	253.2	118.5
G. Reductions from Baseline (<i>i.e.</i> , adopted) Measures, as adjusted to account for Set-Aside (A–D)	232.6	112.5
H. Reductions from District’s Aggregate Emission Reduction Commitments from 2016 AQMP ^d	21.0	6.1
I. Reductions from CARB’s Aggregate Emission Reduction Commitments from 2016 State Strategy—Defined Measures	0	0

¹⁰⁷ See the TSD for this proposed action for a list of District rules with post-2012 compliance dates

affecting future baseline emissions projections. Also

see 2016 AQMP, Appendix VI–C, Attachment VI–C–1 for a list of CARB rules adopted post-2012.

TABLE 9—SUMMARY OF 1-HOUR OZONE NAAQS ATTAINMENT DEMONSTRATION—Continued
[Summer planning inventory, tpd]

	NO _x	VOC ^a
J. Reductions from CARB's Aggregate Emission Reduction Commitments from 2016 State Strategy—New Technology Measures	0	0
K. Total Reductions from District and CARB Commitments in 2016 AQMP and 2016 State Strategy (H + I + J)	21.0	6.1
L. Total Reductions from Baseline Measures plus District and CARB Commitments in 2016 AQMP and 2016 State Strategy (G + K)	253.6	118.6
M. 2022 Emissions with Reductions from Control Strategy (A–L)	268.9	381.1
Attainment demonstrated?	Yes	

Notes and sources:
^a While attainment of the 8-hour ozone NAAQS in the South Coast is dependent almost exclusively on NO_x reductions, both NO_x and VOC emissions reductions reduce 1-hour ozone levels.
^b 2016 AQMP, Appendix III, Attachment B.
^c 1-Hour Ozone Update, 7.
^d 2016 AQMP, Table 4–9.

ii. Updated Attainment Demonstration for the 1997 Ozone NAAQS

In the 2016 AQMP and 2016 State Strategy, the District and State collectively update the attainment demonstration for the 1997 ozone NAAQS. The 2016 AQMP and 2016 State Strategy update the EPA-approved 1997 ozone NAAQS ozone attainment demonstration from the 2007 South Coast Ozone SIP to reflect updated emissions inventories, photochemical models and modeling techniques. Table

10 below summarizes the updated attainment demonstration for the 1997 ozone NAAQS by listing the base year (2012) emissions level, the modeled attainment emissions level, and the reductions that the District and CARB have committed to achieve through adoption of the 2016 AQMP and 2016 State Strategy. As shown in Table 10, the majority of emission reductions needed for attaining the 1997 ozone NAAQS by 2023 comes from baseline measures. These account for approximately 66

percent of the NO_x (251 tpd) reductions needed for attainment of the 1997 ozone NAAQS. The 2016 South Coast Ozone SIP relies on the District's and CARB's enforceable commitments to achieve aggregate emission reductions through implementation of the measures described above in section III.D.2.b.i and III.D.2.b.ii of this document to provide the reductions (beyond those from baseline measures) that are necessary to achieve the 1997 ozone NAAQS by 2023.

TABLE 10—SUMMARY OF 1997 OZONE NAAQS ATTAINMENT DEMONSTRATION
[Summer planning inventory, tpd]

	NO _x ^a
A. 2012 Base Year Emissions Level ^b	522
B. 2023 Attainment Year Baseline Emissions Level ^b	269
C. Set-Aside (Phase-Out of Toxics, General Conformity, SIP Reserve) ^c	3
D. 2023 Adjusted Baseline (<i>i.e.</i> , includes Set-Aside) (B + C)	272
E. 2023 Modeled Attainment Emissions Level ^d	141
F. Total Reductions Needed from 2012 Base Year Levels to Demonstrate Attainment (A – E)	381
G. Reductions from Baseline (<i>i.e.</i> , adopted) Measures, as adjusted to account for Set-Aside (A – D)	250
H. Reductions from District's Aggregate Emission Reduction Commitments from 2016 AQMP ^e	23
I. Reductions from CARB's Aggregate Emission Reduction Commitments from 2016 State Strategy—Defined Measures ^f	5
J. Reductions from CARB's Aggregate Emission Reduction Commitments from 2016 State Strategy—New Technology Measures ^f	108
K. Total Reductions from District and CARB Commitments in 2016 AQMP and 2016 State Strategy (H + I + J)	136
L. Total Reductions from Baseline Measures plus District and CARB Commitments in 2016 AQMP and 2016 State Strategy (G + K)	386
M. 2023 Emissions with Reductions from Control Strategy (A–L)	136
Attainment demonstrated?	Yes

Notes and sources:
^a VOC emissions are not included in this table because attainment of the 8-hour ozone NAAQS in the South Coast is dependent almost exclusively on NO_x reductions.
^b 2016 AQMP, Appendix III, Attachment B; Year 2023 baseline estimates for aircraft, oceangoing vessels, and commercial harbor craft have been updated based on information contained in the 2018 SIP Update, page A–35.
^c 2016 AQMP, Appendix III, pages II–2–90 through III–2–92.
^d 2016 AQMP, Appendix V, page V–4–2.
^e 2016 AQMP, Table 4–10.
^f 2016 State Strategy, Table 4; CARB's aggregate emission reduction commitment is for 113 tpd of NO_x reductions by 2023; for analytical purposes only, we have distinguished the estimated emissions reductions for defined measures from those for new technology measures.

iii. Attainment Demonstration for the 2008 Ozone NAAQS

In the 2016 AQMP and 2016 State Strategy, the District and State

collectively demonstrate attainment of the 2008 ozone NAAQS. Table 11 below summarizes the attainment demonstration for the 2008 ozone

NAAQS by listing the base year (2012) emissions level, the modeled attainment emissions level, and the reductions that the District and CARB have committed

to achieve through adoption of the 2016 AQMP and 2016 State Strategy.

As shown in Table 11, the majority of emission reductions needed for attaining the 2008 ozone NAAQS by 2031 comes from baseline measures. These account for approximately 66

percent of the NO_x (283 tpd) reductions needed for attainment of the 2008 ozone NAAQS. The 2016 South Coast Ozone SIP relies on the District's and CARB's enforceable commitments to achieve aggregate emission reductions through implementation of the measures

described above in section III.D.2.b.i and III.D.2.b.ii of this document to provide the reductions (beyond those from baseline measures) that are necessary to achieve the 2008 ozone NAAQS by 2031.

TABLE 11—SUMMARY OF 2008 OZONE NAAQS ATTAINMENT DEMONSTRATION

[Summer planning inventory, tpd]

	NO _x ^a
A. 2012 Base Year Emissions Level ^b	522
B. 2031 Attainment Year Baseline Emissions Level ^b	238
C. Set-Aside (Phase-Out of Toxics, General Conformity, SIP Reserve) ^c	1
D. 2031 Adjusted Baseline (<i>i.e.</i> , includes Set-Aside) (B + C)	239
E. 2031 Modeled Attainment Emissions Level ^d	96
F. Total Reductions Needed from 2012 Base Year Levels to Demonstrate Attainment (A – E)	426
G. Reductions from Baseline (<i>i.e.</i> , adopted) Measures, as adjusted to account for Set-Aside (A – D)	283
H. Reductions from District's Aggregate Emission Reduction Commitments from 2016 AQMP ^e	31
I. Reductions from CARB's Aggregate Emission Reduction Commitments from 2016 State Strategy—Defined Measures ^f	14
J. Reductions from CARB's Aggregate Emission Reduction Commitments from 2016 State Strategy—New Technology Measures ^f	97
K. Total Reductions from District and CARB Commitments in 2016 AQMP and 2016 State Strategy (H + I + J)	142
L. Total Reductions from Baseline Measures plus District and CARB Commitments in 2016 AQMP and 2016 State Strategy (G + K)	425
M. 2031 Emissions with Reductions from Control Strategy (A – L)	97
Attainment demonstrated?	Yes

Notes and sources:

^aVOC emissions are not included in this table because attainment of the 8-hour ozone NAAQS in the South Coast is dependent almost exclusively on NO_x reductions.

^b2016 AQMP, Appendix III, Attachment B; Year 2031 baseline estimates for aircraft, oceangoing vessels, and commercial harbor craft have been updated based on information contained in the 2018 SIP Update, page A–35.

^c2016 AQMP, Appendix III, pages II–2–90 through III–2–92.

^d2016 AQMP, Appendix V, page V–4–2.

^e2016 AQMP, Table 4–11.

^f2016 State Strategy, Table 4; CARB's aggregate emission reduction commitment is for 111 tpd of NO_x reductions by 2031; for analytical purposes only, we have distinguished the estimated emissions reductions for defined measures from those for new technology measures.

3. The EPA's Review of the State's Submission

a. Photochemical Modeling

To approve a SIP's attainment demonstration, the EPA must make several findings. First, we must find that the demonstration's technical bases, including the emissions inventories and air quality modeling, are adequate. As discussed above in section III.A of this action, we are proposing to approve the base year emissions inventory and to find that the future year emissions projections in the 2016 AQMP reflect appropriate calculation methods and that the latest planning assumptions are properly supported by SIP-approved stationary and mobile source measures.

With respect to the photochemical modeling in the 2016 AQMP and 1-Hour Ozone Update, based on our review of appendix V of the 2016 AQMP and the 1-Hour Ozone Update, the EPA finds that the modeling is adequate for purposes of supporting the attainment demonstration.¹⁰⁸ First, we note the

extensive discussion of modeling procedures, tests, and performance analyses called for in the Modeling Protocol (*i.e.*, chapter 2 of Appendix V of the 2016 AQMP) and the good model performance. Second, we find the WRF meteorological model results and performance statistics including hourly time series graphs of wind speed, direction, and temperature for the South Coast, to be satisfactory and consistent with our Modeling Guidance.¹⁰⁹ Performance was evaluated for each month in each zone for the entire year of 2012.¹¹⁰ Diurnal variation of temperature, humidity and surface wind are well represented by WRF. Geographically, winds are predicted most accurately at the inland urban receptor sites. Accurate wind predictions in this region of elevated ozone concentrations is one of the most critical factors to simulate chemical transport. Overall, the daily WRF simulation for 2012 provided representative meteorological fields that

characterized the observed conditions well.

The model performance statistics for ozone are described in chapters 5 and 8 of Appendix V and are based on the statistical evaluation recommended in the Modeling Guidance. Model performance was provided for 8-hour and 1-hour daily maximum ozone for each of the South Coast sub-regions.¹¹¹ The model performance varied by zone, with over-prediction in the "Coastal zone" and under-prediction in the "San Fernando," and "Foothills" zones. The model ozone predictions in the "Urban Receptor" zone, where the design site station is located, agree reasonably well with the measurements.¹¹² The 2016

¹¹¹ These zones are represented by the following ozone monitoring sites: "Coastal"(Costa Mesa, LAX, Long Beach, Mission Viejo, West Los Angeles); "Urban Source"(Anaheim, Central Los Angeles, Compton, La Habra, Pico Rivera, Pomona) "San Fernando"(Reseda, Santa Clarita, Burbank); "Foothills"(Azusa, Glendora, Pasadena); and "Urban Receptor"(Crestline, Fontana, Lake Elsinore, Mira Loma, Redlands, Rubidoux, San Bernardino, Upland).

¹¹² Table V–5–7; 2012 Base Year 8-Hour Average Ozone Performance for Days When Regional 8-Hour Maximum ≥ 60 parts per billion in the "Urban

¹⁰⁸ The EPA's review of the modeling and attainment demonstration is discussed in greater detail in section V. Modeling and Attainment Demonstration of the TSD.

¹⁰⁹ Modeling Guidance, 30.

¹¹⁰ Temperature, water vapor mixing ratio, and wind speed were evaluated in terms of normalized gross bias and normalized gross error.

Continued

AQMP also presents ozone frequency distributions, scatter plots, and plots of bias against concentration. The scatter and density scatter plots show low bias at high concentrations, and higher bias at low concentrations. The modeling guidance requires the use of only the top 10 days in the RRF calculation, indicating that the modeling capability to predict high concentrations is more important than the prediction of low concentrations. The supplemental hourly time series show generally good performance, though many individual daily ozone peaks are underpredicted. Note that, because only relative changes are used from the modeling, the underprediction of absolute ozone concentrations does not mean that future concentrations will be underestimated. The 2016 AQMP's unmonitored area analysis showed concentrations below 1997 and 2008 ozone NAAQS for all locations.¹¹³ This analysis adds assurance to the attainment demonstrations that all locations in the South Coast will attain the 1997 ozone NAAQS by 2023 and the 2008 ozone NAAQS by 2031. In addition, the weight of evidence analyses presented in the 2016 AQMP and 1-Hour Update provide additional information with respect to the sensitivity to emission changes and improve the understanding of the model performance. We are proposing to find the air quality modeling adequate to support the updated attainment demonstrations for the 1-hour ozone and 1997 ozone NAAQS and the attainment demonstration for the 2008 ozone NAAQS, based on reasonable meteorological and ozone modeling performance, supported by the unmonitored area and weight of evidence analyses.

b. Control Strategy for Attainment

Second, we must find that the emissions reductions that are relied on for attainment are creditable and are sufficient to provide for attainment. As shown in tables 9, 10, and 11 above, the 2016 South Coast Ozone SIP relies on

Receptor" region. Appendix V of the 2016 AQMP, page V-5-13.

¹¹³ Appendix V of the 2016 AQMP, Unmonitored Area Analysis, V-5-28 to V-5-35. Spatial projections of the 8-hour and 1-hour design values were also provided. See Appendix V of the 2016 AQMP, Spatial Projections of 8-Hour Ozone Design Values, pages V-5-25 to V-5-28, and 1-Hour Ozone Update, Spatial Projections of 1-Hour Ozone Design Values, p. 10-11.

adopted measures to achieve a significant portion of the emissions reductions needed to attain the 1-hour ozone NAAQS by 2022, the 1997 ozone NAAQS by 2023, and the 2008 ozone NAAQS by 2031. The balance of the reductions needed for attainment is in the form of enforceable commitments to take certain specific regulatory and nonregulatory actions within prescribed periods and to achieve aggregate tonnage reductions of VOC or NO_x by specific years in the South Coast. The enforceable commitments made by the District and CARB through adoption of the 2016 AQMP and 2016 State Strategy are similar to the enforceable commitments that the EPA has approved as part of attainment demonstrations in previous California air quality plans and that have withstood legal challenge.¹¹⁴

As noted in the preceding paragraph the EPA has previously accepted enforceable commitments in lieu of adopted control measures in attainment demonstrations when the circumstances warrant them and when the commitments meet specific criteria. We believe that, with respect to all three ozone NAAQS, circumstances warrant the consideration of enforceable commitments as part of the attainment demonstrations for the South Coast. First, as shown in tables 9, 10 and 11 above, a substantial portion of the emission reductions needed to demonstrate attainment in the South Coast come from measures adopted prior to adoption and submittal of the 2016 AQMP and 2016 State Strategy. As a result of these State and District efforts, most emissions sources in the South Coast are currently subject to stringent emission limitations and other requirements, leaving few opportunities to further reduce emissions. In the 2016 AQMP and 2016 State Strategy, the District and CARB identified potential control measures that could provide many of the additional emissions reductions needed for attainment. These are described above in sections

¹¹⁴ See *Committee for a Better Arvin v. EPA*, 786 F.3d 1169 (9th Cir. 2015) (approval of state commitments to propose and adopt emissions control measures and to achieve aggregate emissions reductions for San Joaquin Valley ozone and particulate matter plans upheld); *Physicians for Social Responsibility—Los Angeles v. EPA*, 9th Cir., memorandum opinion issued July 25, 2016 (approval of air district commitments to propose and adopt measures and to achieve aggregate emissions reductions for South Coast 1-hour ozone plan upheld).

III.D.2.b.i and III.D.2.b.ii of this action. However, the timeline needed to develop, adopt, and implement these measures went beyond the required submittal date for the attainment demonstration for the South Coast for the 2008 ozone NAAQS. These circumstances warrant the District's and CARB's reliance on enforceable commitments as part of the attainment demonstrations for the 1-hour, 1997, and 2008 ozone NAAQS.

Given the State's demonstrated need for reliance on enforceable commitments, we now consider the three factors the EPA uses to determine whether the use of enforceable commitments in lieu of adopted measures to meet CAA planning requirements is approvable: (a) Does the commitment address a limited portion of the statutorily-required program; (b) is the state capable of fulfilling its commitment; and (c) is the commitment for a reasonable and appropriate period of time.

i. Commitments are a Limited Portion of Required Reductions

For the first factor, we look to see if the commitment addresses a limited portion of a statutory requirement and review the amount of emissions reductions needed to demonstrate attainment in a nonattainment area. For this calculation, reductions assigned to the new technologies provision (*i.e.*, CAA section 182(e)(5) new technology measures) are not counted as commitments.¹¹⁵

Tables 9, 10, and 11 above show emission reductions needed to demonstrate attainment of the 1-hour, 1997, and 2008 8-hour NAAQS in the South Coast and the aggregate emissions reductions commitments by the District and CARB. Based on these values, we have calculated the percent of required reductions that would come from enforceable commitments by the District and CARB (other than new technology measures). See Table 12 below.

¹¹⁵ CAA section 182(e)(5) specifically allows EPA to approve an attainment demonstration that relies on reductions from new technologies. This provision is separate from the requirement in CAA section 172(c)(6) for enforceable emissions limitations under which enforceable commitments are considered. As a result, reductions attributed in the attainment demonstration to new technologies are not considered part of the State's enforceable commitments for purposes of determining the percentage of reductions needed for attainment that remain as commitments.

TABLE 12—ENFORCEABLE AGGREGATE COMMITMENTS AS A PERCENTAGE OF REQUIRED REDUCTIONS ^a

Attainment year	2022		2023	2031
	NO _x	VOC	NO _x	NO _x
Tons per day	21	6	28	45
Percentage of Required Reductions ^b	8%	5%	7%	11%

Notes and sources:

^aCAA section 182(e)(5) reductions are not included below.

^bThe percentage of required emissions from enforceable commitments is calculated by dividing the sum of Rows H and I in tables 9, 10, and 11 above by Row F.

As shown in Table 12, when compared to the total reductions needed to demonstrate attainment (not including the CAA section 182(e)(5) reductions in the attainment demonstration), the remaining portion of the enforceable commitments represents a small fraction of the reductions needed. Historically, the EPA has approved SIPs with enforceable commitments in the range of approximately 10 percent of the total needed reductions for attainment.¹¹⁶ Thus, we find that the District's and CARB commitments in the 2016 AQMP and 2016 State Strategy for the South Coast address a limited proportion of the required emission reductions.

ii. The State Is Capable of Fulfilling its Commitment

For the second factor, we consider whether the District and CARB are capable of fulfilling their commitments. CARB adopted and submitted the 2016 State Strategy to achieve the reductions necessary from mobile sources, fuels, and consumer products to meet ozone and PM_{2.5} NAAQS over the next 15 years. The 2016 State Strategy builds on the 2007 State Strategy and its revisions. The 2016 State Strategy shows that CARB has made significant progress in fulfilling its enforceable commitments from the 2007 South Coast Ozone SIP. The District has also made significant progress in meeting its enforceable commitments in its prior AQMPs.

The District and CARB also have a history of funding incentive grant programs to reduce emissions from the on- and off-road engine fleets. CARB has also continued to work with the District on defining funding needs and mechanisms for implementing the 2016 State Strategy. Working with CARB, the District has estimated that sustained funding levels of approximately \$1

billion per year through 2031 will be needed to support the necessary scale of technology transformation. The District developed a Draft Financial Incentives Funding Action Plan ("Funding Action Plan")¹¹⁷ that describes existing sources of funding, new funding opportunities, activities that will be undertaken to pursue each potential funding mechanism, as well as a schedule and reporting process. As part of this effort, the District has identified a broad spectrum of potential funding mechanisms that could meet the region's funding needs. The District established a stakeholder-based 2016 AQMP Funding Working Group that began meeting in August 2017 to help further develop and implement the Funding Action Plan. CARB will continue to collaborate with the District on the Funding Action Plan, as well as play a key role in implementing state-level efforts that are facilitating the transition to cleaner technologies, such as the California Sustainable Freight Action Plan, the ZEV Action Plan, and the Transformative Climate Communities program.

Given CARB's and the District's efforts to date to reduce emissions, we believe that the State and District are capable of meeting their enforceable commitments to adopt measures that will reduce emissions to the levels needed to attain the 1-hour, 1997, and 2008 ozone NAAQS in the South Coast by the 2022, 2023, and 2031 attainment years, respectively.

iii. The Commitment Is for a Reasonable and Appropriate Timeframe

For the third and last factor, we consider whether the commitment is for a reasonable and appropriate period of time. To meet the commitments to adopt measures to reduce emissions to the levels needed to attain the 1-hour, 1997, and 2008 ozone NAAQS in the South Coast, the 2016 AQMP and 2016 State Strategy includes ambitious rule

development, adoption, and implementation schedules. The District and CARB have committed to take the necessary actions and to achieve the remaining reductions by 2022, 2023, and 2031. We believe that this period is appropriate given the technological and economic challenges associated with the control measures that will be needed to achieve these reductions and given the procedures under state law for development and adoption of these measures. In addition, these reductions are not needed to meet RFP targets for the 2008 ozone NAAQS, and the adoption and submission timeframe ensures adequate time for implementation by the beginning of the last full ozone season applicable to each of the three ozone standards addressed in the 2016 South Coast Ozone SIP. Thus, the commitments are for a reasonable and appropriate period of time.

iv. CAA Section 182(e)(5) New Technology Provisions

For ozone nonattainment areas classified as Extreme, the CAA recognizes that an attainment demonstration may need to rely to a certain extent on new or evolving technologies, given the long time period between developing the initial plan and attaining the standard, and the degree of emissions reductions needed to attain. To address these needs, CAA section 182(e)(5) authorizes the EPA to approve provisions in an Extreme area plan which "anticipate development of new control techniques or improvement of existing control technologies," and to approve an attainment demonstration based on such provisions, if the state demonstrates that: (1) Such provisions are not necessary to achieve the incremental emission reductions required during the first 10 years after November 15, 1990; and (2) the state has submitted enforceable commitments to develop and adopt contingency measures to be implemented if the anticipated technologies do not achieve the planned reductions. The state must submit these contingency measures to the EPA no later than 3 years before

¹¹⁶ See our approval of the following plans: San Joaquin Valley (SJV) PM₁₀ Plan at 69 FR 30005 (May 26, 2004); SJV 1-hour ozone plan at 75 FR 10420 (March 8, 2010); Houston-Galveston 1-hour ozone plan at 66 FR 57160 (November 14, 2001); South Coast 1997 8-hour ozone plan at 77 FR 12674 (March 1, 2012); and South Coast 1-hour ozone plan at 79 FR 52526 (September 3, 2014).

¹¹⁷ See <http://www.aqmd.gov/docs/default-source/clean-air-plans/air-quality-management-plans/2016-air-quality-management-plan/draft-financialincentivefunddec2016.pdf>.

proposed implementation of these long-term measures, and the contingency measures must be “adequate to produce emissions reductions sufficient, in conjunction with other approved plan provisions, to achieve the periodic emissions reductions required by [CAA sections 182(b)(1) or (c)(2)] and attainment by the applicable dates.”¹¹⁸

The General Preamble further provides that the new technology measures contemplated by section 182(e)(5) may include those that anticipate future technological developments as well as those that require complex analyses, decision making, and coordination among a number of government agencies.¹¹⁹ An attainment demonstration that relies on long-term new technology measures under section 182(e)(5) must identify any such measures and contain a schedule outlining the steps leading to final development and adoption of the measures.¹²⁰

CARB and the SCAQMD have demonstrated a clear need for emissions reductions from new and improved control technologies to reduce air pollution in the South Coast. The adopted control measures and enforceable commitments, discussed above, provide the majority, but not all, of the balance of the emissions reductions needed to attain the 1997 and 2008 ozone NAAQS by 2023, and 2031, respectively. (The updated attainment demonstration in the 2016 South Coast Ozone SIP for the 1-hour ozone NAAQS does not rely on CAA section 182(e)(5) new technology provisions.)

Through adoption of the 2016 State Strategy, CARB is updating its previously-approved commitments from the 2007 South Coast Ozone SIP to achieve aggregate emissions reductions from defined and new technology measures for the 1997 ozone NAAQS. More specifically, CARB is replacing its commitments to achieve 141 tpd of NO_x reductions and 54 tpd of VOC reductions from defined measures and to achieve 241 tpd of NO_x reductions and 40 tpd of VOC reductions from new technology measures by 2023 with a combined (*i.e.*, defined and new technology measures together in a single commitment) commitment to achieve 113 tpd of NO_x reductions and 50–51 tpd of VOC reductions by 2023.

We find that CARB’s updated commitment¹²¹ for the 1997 ozone

NAAQS in the 2016 State Strategy satisfies the criteria in CAA section 182(e)(5) for the following reasons: (1) The 2016 South Coast Ozone SIP does not rely on the new technology measure reductions until the attainment year (2023); (2) it does not rely on new technology measure reductions to achieve RFP milestones for the first 10 years after designation (for the 1997 ozone NAAQS); and (3) the previously-approved commitment by CARB to submit contingency measures by 2020 (as necessary to cover any shortfall from new technology measures) remains in effect. Moreover, we find that the 2016 State Strategy adequately describes the new technology measures by, among other things, identifying a schedule outlining the specific actions to be taken to develop and adopt the measures and achieve the related reductions.

With respect to attainment of the 2008 ozone NAAQS for the South Coast, through adoption of the 2016 State Strategy, CARB commits to achieve aggregate emissions reductions from a combination of defined and new technology measures of 111 tpd of NO_x and 59–60 tpd of VOC by 2031. As described above with respect to CARB’s updated commitment for the 1997 ozone NAAQS, we recognize that the 2016 State Strategy does not rely on the new technology measure reductions until the attainment year (2031) and thus, does not rely on them to achieve RFP milestones for the first 10 years after designation (for the 2008 ozone NAAQS). Also, we find that CARB’s description of the new technology measures in the 2016 State Strategy to be adequate. For the 2008 ozone NAAQS, CARB has submitted a new commitment to develop, adopt and submit contingency measures by 2028 if new technology measures do not achieve planned reductions.¹²² We find that CARB’s new commitment complies with the criterion in CAA section 182(e)(5) that requires submittal of such contingency measures no later than 3 years prior to implementation of the new technology measures.

v. Proposed Action on Measures in the Attainment Strategy

As discussed above, we believe that circumstances here warrant the consideration of enforceable commitments, and that the three criteria

measures shortfall as part of our approval of the 2007 South Coast Ozone SIP. 77 FR 12674, at 12695 (March 1, 2012) (approval of section 182(e)(5) contingency measure commitment in CARB Resolution 11–22 (July 21, 2011).

¹²² CARB Resolution 17–8, 9 (March 23, 2017) (CARB resolution adopting the 2016 AQMP as a revision to the California SIP).

are met: (1) The commitments constitute a limited portion of the required emissions reductions; (2) both CARB and the District are capable of meeting their commitments; and (3) the commitments are for an appropriate timeframe. Based on these evaluations, we are proposing to approve the enforceable commitments as part of the attainment demonstration.

More specifically, we propose to approve the SCAQMD’s updated commitments for the 1-hour and 1997 ozone NAAQS and new commitment for the 2008 ozone NAAQS: (1) To develop, adopt, submit, and implement the ozone measures in tables 4–2 and 4–4 of Chapter 4 in the 2016 AQMP (main document); and (2) to meet or exceed the aggregate emissions reduction commitments identified in tables 4–9 through 4–11 of the 2016 AQMP (main document); and (3) to substitute any other measures as necessary to make up any emissions reduction shortfall following the procedures set forth for such substitution in Chapter 4 (pages 4–54 and 4–55) of the 2016 AQMP.

We also propose to approve CARB’s updated commitment for the 1997 ozone NAAQS and new commitment for the 2008 ozone NAAQS: (1) To bring to its Board for consideration the list of proposed SIP measures outlined in Chapter 4 of the 2016 State Strategy and included in Attachment A (“Proposed New SIP Measures and Schedule”) of CARB Board Resolution 17–7 according to the schedule set forth therein; and (2) to achieve the aggregate emission reductions from defined and new technology measures for the South Coast outlined in the 2016 State Strategy of 113 tpd of NO_x and 50–51 tpd of VOC by 2023 and 111 tpd of NO_x and 59–60 tpd of VOC by 2031. In connection with the new technology measures, we propose to find that the 2016 South Coast Ozone SIP meets the criteria for reliance on new technology measures in CAA section 182(e)(5) for the 1997 and 2008 ozone NAAQS. Our proposed finding in this regard is based on the proposed approval herein of CARB’s commitment in Resolution 17–8 (March 23, 2017) to develop, adopt, and submit contingency measures by 2028 (for the purposes of attaining the 2008 ozone NAAQS in the South Coast) if new technology measures do not achieve planned reductions. (As noted previously, CARB has already submitted as part of the 2007 South Coast Ozone SIP, and the EPA has approved, a commitment to submit such measures by 2020 for the purposes of attaining the 1997 ozone NAAQS in the South Coast if new technology measures do not achieve planned reductions.)

¹¹⁸ *Id.*

¹¹⁹ General Preamble, 13524.

¹²⁰ *Id.*

¹²¹ We approved CARB’s commitment for contingency measures to cover any new technology

c. Attainment Demonstration

Based on our proposed determinations that the photochemical modeling and control strategy are acceptable, and our proposed approval of the aggregate emissions reduction commitments by the District and CARB, including the commitment by CARB to submit contingency measures to cover the reductions from new technology measures if needed, we propose to approve the updated attainment demonstrations for the 1-hour ozone NAAQS and the 1997 ozone NAAQS, and the attainment demonstration for the 2008 ozone NAAQS in the 2016 South Coast Ozone SIP as meeting the requirements of CAA section 182(c)(2)(A) and 40 CFR 51.1108.¹²³

E. Rate of Progress Plan and Reasonable Further Progress Demonstration

1. Statutory and Regulatory Requirements

Requirements for RFP for ozone nonattainment areas are specified in CAA sections 172(c)(2), 182(b)(1), and 182(c)(2)(B). Under CAA section 171(1), RFP is defined as meaning such annual incremental reductions in emissions of the relevant air pollutant as are required under part D (“Plan Requirements for Nonattainment Areas”) or may reasonably be required by the EPA for the purpose of ensuring attainment of the applicable NAAQS by the applicable date. CAA section 182(b)(1) specifically requires that ozone nonattainment areas that are classified as Moderate or above demonstrate a 15 percent reduction in VOC between the years of 1990 and 1996. The EPA has typically referred to section 182(b)(1) as the Rate of Progress (ROP) requirement. For ozone nonattainment areas classified as Serious or higher, section 182(c)(2)(B) requires reductions averaged over each consecutive 3-year period, beginning 6 years after the baseline year until the attainment date, of at least 3 percent of

baseline emissions per year. The provisions in CAA section 182(c)(2)(B)(ii) allow an amount less than 3 percent of such baseline emissions each year if the state demonstrates to the EPA that the plan includes all measures that can feasibly be implemented in the area in light of technological achievability.

In the 2008 Ozone SRR, the EPA provides that areas classified Moderate or higher will have met the ROP requirements of CAA section 182(b)(1) if the area has a fully approved 15 percent ROP plan for the 1-hour or 1997 8-hour ozone standards, provided the boundaries of the ozone nonattainment areas are the same.¹²⁴ For such areas, the EPA interprets the RFP requirements of CAA section 172(c)(2) to require areas classified as Moderate to provide a 15 percent emission reduction of ozone precursors within 6 years of the baseline year. Areas classified as Serious or higher must meet the RFP requirements of CAA section 182(c)(2)(B) by providing an 18 percent reduction of ozone precursors in the first 6-year period, and an average ozone precursor emission reduction of 3 percent per year for all remaining 3-year periods thereafter.¹²⁵ To meet CAA sections 172(c)(2) and 182(c)(2)(B) RFP requirements, the state may substitute NO_x emissions reductions for VOC reductions.¹²⁶

Except as specifically provided in CAA section 182(b)(1)(C), emissions reductions from all SIP-approved, federally promulgated, or otherwise SIP-creditable measures that occur after the baseline year are creditable for purposes of demonstrating that the RFP targets are met. Because the EPA has determined that the passage of time has caused the effect of certain exclusions to be de minimis, the RFP demonstration is no longer required to calculate and specifically exclude reductions from measures related to motor vehicle exhaust or evaporative emissions promulgated by January 1, 1990; regulations concerning Reid vapor pressure promulgated by November 15, 1990; measures to correct previous RACT requirements; and, measures required to correct previous inspection and maintenance (I/M) programs.¹²⁷

The 2008 Ozone SRR requires the RFP baseline year to be the most recent calendar year for which a complete triennial inventory was required to be

submitted to the EPA. For the purposes of developing RFP demonstrations for the 2008 ozone NAAQS, the applicable triennial inventory year is 2011. As discussed previously, the 2008 Ozone SRR provided states with the opportunity to use an alternative baseline year for RFP,¹²⁸ but that provision of the 2008 Ozone SRR was vacated by the D.C. Circuit in the *South Coast II* decision.

2. Summary of the State's Submission

In response to the *South Coast II* decision, CARB developed the 2018 SIP Update, which replaces the RFP portion of the 2016 AQMP and includes updated emissions estimates for the RFP baseline year, subsequent milestone years, and the attainment year, and an updated RFP demonstration relying on a 2011 RFP baseline year.¹²⁹ To develop the 2011 RFP baseline inventory, CARB relied on actual emissions reported from industrial point sources for year 2011 and backcast emissions from smaller stationary sources and area sources from 2012 to 2011 using the same growth and control factors as was used for the 2016 AQMP. To develop the emissions inventories for the RFP milestone years (*i.e.*, 2017, 2020, 2023, 2026, 2029) and attainment year (2031), CARB also relied upon the same growth and control factors as the 2016 AQMP.

Documentation for the South Coast RFP baseline and milestone emissions inventories is found in the 2018 SIP Update on pages 4–5, 63–65, and appendix A, pages A–31–A–35. For both sets of baseline emissions inventories (those in the 2016 AQMP and those in the 2018 SIP Update), emissions estimates reflect District rules adopted through December 2015 and CARB rules adopted through November 2015. Unlike the emissions inventories for the base year (2012) and for the attainment demonstrations in the 2016 AQMP, the RFP baseline and milestone emissions inventories only include emissions within the South Coast ozone nonattainment area and thus do not include marine emissions (*e.g.*, emissions from ocean-going vessels) beyond three nautical miles from the coastline. In contrast, the base year (2012) and attainment demonstration inventories include emissions from marine vessels out to 100 miles from the coastline.

¹²³ We recognize that in Table 11 the control strategy is expected to achieve a NO_x emissions level of 97 tpd by 2031 in the South Coast whereas the modeled attainment demonstration for the 2008 ozone NAAQS is based on a NO_x emissions level of 96 tpd. However, we believe that the control strategy will suffice to attain the NAAQS because a shortfall of 1 tpd of NO_x is unlikely to have a 0.001 ppm or greater impact on the 0.075 ppm model-predicted 8-hour ozone concentration in 2031 (controlled case) at the highest site (Fontana) as shown in Table 5–2 of the 2016 AQMP based on the isopleth map for the Fontana site shown on page 7 of Attachment 4 to Appendix V of the 2016 AQMP. (Note that under the control strategy in the 2016 AQMP and 2016 State Strategy, South Coast VOC emissions in 2031 are expected to be approximately 292–293 tpd based on the 2031 baseline value (362 tpd) minus the District's and CARB's aggregate emission reduction commitments by 2031.)

¹²⁴ 70 FR 12264, at 12271 (March 6, 2015).

¹²⁵ *Id.*

¹²⁶ 40 CFR 51.1110(a)(2)(i)(C) and 40 CFR 51.1110(a)(2)(ii)(B); and 70 FR 12264, at 12271 (March 6, 2015).

¹²⁷ 40 CFR 51.1110(a)(7).

¹²⁸ 40 CFR 51.1110(b).

¹²⁹ 2018 SIP Update, RFP demonstration, section IX–B, 64 and 65.

The updated RFP demonstration for the South Coast for the 2008 ozone NAAQS is shown in Table 13. The updated RFP demonstration calculates future year VOC targets from the 2011 baseline, consistent with CAA

182(c)(2)(B)(i), which requires reductions of “at least 3 percent of baseline emissions each year;” and it substitutes NO_x reductions for VOC reductions beginning in milestone year 2020 to meet VOC emission targets.¹³⁰

For the South Coast, CARB concludes that the RFP demonstration meets the applicable requirements for each milestone year as well as the attainment year.

TABLE 13—RFP DEMONSTRATION FOR THE SOUTH COAST FOR THE 2008 OZONE NAAQS
[Summer planning inventory, tpd or percent]

	2011	2017	2020	2023	2026	2029	2031
VOC							
Baseline VOC	522.0	413.7	388.6	376.0	367.5	362.5	358.3
Required change since 2011 (VOC or NO _x), %		18%	27%	36%	45%	54%	60%
Required reductions since 2011, tpd		94.0	140.9	187.9	234.9	281.9	313.2
Target VOC level		428.0	381.1	334.1	287.1	240.1	208.8
Apparent shortfall (-)/surplus (+) in VOC		14.3	-7.5	-41.9	-80.4	-122.4	-149.5
Apparent shortfall (-)/surplus (+) in VOC, %		2.8%	-1.4%	-8.0%	-15.4%	-23.4%	-28.6%
VOC shortfall previously provided by NO _x substitution, %		0.0%	0.0%	1.4%	8.0%	15.4%	23.4%
Actual VOC shortfall (-)/surplus (+), %		2.8%	-1.4%	-6.6%	-7.4%	-8.1%	-5.2%
NO_x							
Baseline NO _x	534.3	366.2	306.5	239.0	220.9	209.9	204.9
Change in NO _x since 2011, tpd		168.1	227.9	295.3	313.4	324.4	329.9
Change in NO _x since 2011, %		31.5%	42.6%	55.3%	58.7%	60.7%	61.7%
NO _x reductions used for VOC substitution through last milestone year, %		0%	0%	1.4%	8.0%	15.4%	23.4%
NO _x reductions since 2011 available for VOC substitution in this milestone year, %		31.5%	42.6%	53.8%	50.6%	45.3%	38.2%
NO _x reductions since 2011 used for VOC substitution in this milestone year, %		0%	1.4%	6.6%	7.4%	8.1%	5.2%
NO _x reductions since 2011 surplus after meeting VOC substitution needs in this milestone year, %		31.5%	41.2%	47.2%	43.3%	37.3%	33.0%
Total shortfall for RFP		0%	0%	0%	0%	0%	0%
RFP met?		Yes	Yes	Yes	Yes	Yes	Yes

Source: Table IX-2 of the 2018 SIP Update.

3. The EPA’s Review of the State’s Submission

In 1997, the EPA approved a 15 percent ROP plan for the South Coast ozone nonattainment area for the 1-hour ozone NAAQS, and the South Coast nonattainment area for the 2008 ozone NAAQS is the same as the South Coast nonattainment area for the 1-hour ozone NAAQS.¹³¹ As a result, the District and CARB have met the ROP requirements of CAA section 182(b)(1) for the South Coast and do not need to demonstrate another 15 percent reduction in VOC for this area.

Based on our review of the emissions inventory documentation in the 2016 AQMP and 2018 SIP Update, we find that CARB and the District have used the most recent planning and activity assumptions, emissions models, and methodologies in developing the RFP baseline and milestone year emissions inventories. We have also have

reviewed the calculations in Table IX-2 of the 2018 SIP Update and presented in Table 13 above and find that the District and CARB have used an appropriate calculation method to demonstrate RFP. For these reasons, we have determined that the 2016 South Coast Ozone SIP demonstrates RFP in each milestone year and the attainment year, consistent with applicable CAA requirements and EPA guidance. We therefore propose to approve the RFP demonstrations for the South Coast for the 2008 ozone NAAQS under sections 172(c)(2), 182(b)(1) and 182(c)(2)(B) of the CAA and 40 CFR 51.1110(a)(2)(ii).

F. Transportation Control Strategies and Measures to Offset Emissions Increases From Vehicle Miles Traveled

1. Stationary and Regulatory Requirements

Section 182(d)(1)(A) of the Act requires, in relevant part, the state, if

subject to its requirements for a given area, to “submit a revision that identifies and adopts specific enforceable transportation control strategies and transportation control measures to offset any growth in emissions from growth in vehicle miles traveled or number of vehicle trips in such area.”¹³² Herein, we use “VMT” to refer to vehicle miles traveled and refer to the related SIP requirement as the “VMT emissions offset requirement.” In addition, we refer to the SIP revision intended to demonstrate compliance with the VMT emissions offset requirement as the “VMT emissions offset demonstration.”

In *Association of Irrigated Residents v. EPA*, the United States Court of Appeals for the Ninth Circuit (“Court”) ruled that additional transportation control measures are required whenever vehicle emissions are projected to be higher than they would have been had VMT not increased, even when aggregate

¹³⁰ NO_x substitution is permitted under EPA regulations. See 40 CFR 51.1110(a)(2)(i)(C) and 40 CFR 51.1110(a)(2)(ii)(B); and 70 FR 12264, at 12271 (March 6, 2015).

¹³¹ 62 FR 1150, at 1183 (January 8, 1997).

¹³² CAA section 182(d)(1)(A) includes three separate elements. In short, under section 182(d)(1)(A), states are required to adopt transportation control strategies and measures to

offset growth in emissions from growth in VMT, and, as necessary, in combination with other emission reduction requirements, to demonstrate RFP and attainment. For more information on the EPA’s interpretation of the three elements of section 182(d)(1)(A). See 77 FR 58067, at 58068 (September 19, 2012) (proposed withdrawal of approval of South Coast VMT emissions offset demonstrations). In section III.F of this document, we are addressing

the first element of CAA section 182(d)(1)(A) (*i.e.*, the VMT emissions offset requirement). In sections III.E and D of this document, we are proposing to approve the RFP and attainment demonstrations, respectively, for the 2008 ozone NAAQS in the South Coast, and compliance with the second and third elements of section 182(d)(1)(A) is predicated on final approval of the RFP and attainment demonstrations.

vehicle emissions are actually decreasing.¹³³ In response to the Court's decision, in August 2012, the EPA issued a memorandum titled "Guidance on Implementing Clean Air Act Section 182(d)(1)(A): Transportation Control Measures and Transportation Control Strategies to Offset Growth in Emissions Due to Growth in Vehicle Miles Travelled" (herein referred to as the "August 2012 guidance").¹³⁴

The August 2012 guidance discusses the meaning of "transportation control strategies" (TCSs) and "transportation control measures" (TCMs) and recommends that both TCSs and TCMs be included in the calculations made for the purpose of determining the degree to which any hypothetical growth in emissions due to growth in VMT should be offset. Generally, TCSs is a broad term that encompasses many types of controls including, for example, motor vehicle emission limitations, I/M programs, alternative fuel programs, other technology-based measures, and TCMs, that would fit within the regulatory definition of "control strategy."¹³⁵ TCMs are defined at 40 CFR 51.100(r) as meaning "any measure that is directed toward reducing emissions of air pollutants from transportation sources. Such measures include, but are not limited to those listed in section 108(f) of the Clean Air Act[.]" TCMs generally refer to programs intended to reduce the VMT, the number of vehicle trips, or traffic congestion, such as programs for improved public transit, designation of certain lanes for passenger buses and high-occupancy vehicles, and trip reduction ordinances.

The August 2012 guidance explains how states may demonstrate that the VMT emissions offset requirement is satisfied in conformance with the Court's ruling. States are recommended to estimate emissions for the nonattainment area's base year and the attainment year. One emission inventory is developed for the base year, and three different emissions inventory scenarios are developed for the attainment year. For the attainment year, the state would present three emissions estimates, two of which would represent hypothetical emissions

scenarios that would provide the basis to identify the "growth in emissions" due solely to the growth in VMT, and one that would represent projected actual motor vehicle emissions after fully accounting for projected VMT growth and offsetting emissions reductions obtained by all creditable TCSs and TCMs. See the August 2012 guidance for specific details on how states might conduct the calculations.

The base year on-road VOC emissions should be calculated using VMT in that year, and it should reflect all enforceable TCSs and TCMs in place in the base year. This would include vehicle emissions standards, state and local control programs, such as I/M programs or fuel rules, and any additional implemented TCSs and TCMs that were already required by or credited in the SIP as of that base year.

The first of the emissions calculations for the attainment year would be based on the projected VMT and trips for that year and assume that no new TCSs or TCMs beyond those already credited in the base year inventory have been put in place since the base year. This calculation demonstrates how emissions would hypothetically change if no new TCSs or TCMs were implemented, and VMT and trips were allowed to grow at the projected rate from the base year. This estimate would show the potential for an increase in emissions due solely to growth in VMT and trips. This represents a "no action" taken scenario. Emissions in the attainment year in this scenario may be lower than those in the base year due to the fleet that was on the road in the base year gradually being replaced through fleet turnover; however, provided VMT and/or numbers of vehicle trips will in fact increase by the attainment year, they would still likely be higher than they would have been assuming VMT had held constant.

The second of the attainment year's emissions calculations would assume that no new TCSs or TCMs beyond those already credited have been put in place since the base year, but it would also assume that there was no growth in VMT and trips between the base year and attainment year. This estimate reflects the hypothetical emissions level that would have occurred if no further TCMs or TCSs had been put in place and if VMT and trip levels had held constant since the base year. Like the "no action" attainment year estimate described above, emissions in the attainment year may be lower than those in the base year due to the fleet that was on the road in the base year gradually being replaced by cleaner vehicles through fleet turnover, but in this case

they would not be influenced by any growth in VMT or trips. This emissions estimate would reflect a ceiling on the attainment emissions that should be allowed to occur under the statute as interpreted by the Court because it shows what would happen under a scenario in which no offsetting TCSs or TCMs have yet been put in place and VMT and trips are held constant during the period from the area's base year to its attainment year. This represents a "VMT offset ceiling" scenario. These two hypothetical status quo estimates are necessary steps in identifying the target level of emissions from which states would determine whether further TCMs or TCSs, beyond those that have been adopted and implemented in reality, would need to be adopted and implemented in order to fully offset any increase in emissions due solely to VMT and trips identified in the "no action" scenario.

Finally, the state would present the emissions that are actually expected to occur in the area's attainment year after taking into account reductions from all enforceable TCSs and TCMs that in reality were put in place after the baseline year. This estimate would be based on the VMT and trip levels expected to occur in the attainment year (*i.e.*, the VMT and trip levels from the first estimate) and all of the TCSs and TCMs expected to be in place and for which the SIP will take credit in the area's attainment year, including any TCMs and TCSs put in place since the base year. This represents the "projected actual" attainment year scenario. If this emissions estimate is less than or equal to the emissions ceiling that was established in the second of the attainment year calculations, the TCSs or TCMs for the attainment year would be sufficient to fully offset the identified hypothetical growth in emissions.

If, instead, the estimated projected actual attainment year emissions are still greater than the ceiling which was established in the second of the attainment year emissions calculations, even after accounting for post-baseline year TCSs and TCMs, the state would need to adopt and implement additional TCSs or TCMs to further offset the growth in emissions. The additional TCSs or TCMs would need to bring the actual emissions down to at least the "had VMT and trips held constant" ceiling estimated in the second of the attainment year calculations, in order to meet the VMT offset requirement of section 182(d)(1)(A) as interpreted by the Court.

¹³³ See *Association of Irrigated Residents v. EPA*, 632 F.3d 584, at 596–597 (9th Cir. 2011), reprinted as amended on January 27, 2012, 686 F.3d 668, further amended February 13, 2012 ("Association of Irrigated Residents").

¹³⁴ Memorandum dated August 30, 2012, Karl Simon, Director, Transportation and Climate Division, Office of Transportation and Air Quality, to Carl Edland, Director, Multimedia Planning and Permitting Division, EPA Region 6, and Deborah Jordan, Director, Air Division, EPA Region 9.

¹³⁵ See, *e.g.*, 40 CFR 51.100(n).

2. Summary of State’s Submission

CARB prepared the VMT emissions offset demonstration for the South Coast for the 2008 ozone NAAQS, and the District included it in 2016 AQMP as appendix VI-E (“VMT Offset Demonstration”). In addition to the VMT emissions offset demonstration, appendix VI-E of the 2016 AQMP includes two attachments—one listing the TCSs adopted by CARB since 1990 and another listing the TCMs developed by SCAG (as of September 2014) in the South Coast region that are subject to timely implementation reporting requirements.

For the VMT emissions offset demonstration, CARB used EMFAC2014, the latest EPA-approved motor vehicle emissions model for California. The EMFAC2014 model estimates the on-road emissions from two combustion processes (*i.e.*, running exhaust and start exhaust) and four evaporative processes (*i.e.*, hot soak, running losses, diurnal losses, and resting losses). The EMFAC2014 model combines trip-based VMT data from the regional transportation planning agency (*i.e.*, SCAG), starts data based on household travel surveys, and vehicle population data from the California

Department of Motor Vehicles. These sets of data are combined with corresponding emission rates to calculate emissions.

Emissions from running exhaust, start exhaust, hot soak, and running losses are a function of how much a vehicle is driven. Emissions from these processes are thus directly related to VMT and vehicle trips, and CARB included emissions from them in the calculations that provide the basis for the South Coast VMT emissions offset demonstration. CARB did not include emissions from resting loss and diurnal loss processes in the analysis because such emissions are related to vehicle population, not to VMT or vehicle trips, and thus are not part of “any growth in emissions from growth in vehicle miles traveled or numbers of vehicle trips in such area” under CAA section 182(d)(1)(A).

The South Coast VMT emissions offset demonstration uses 2012 as the “base year.” The base year for VMT emissions offset demonstration purposes should generally be the same base year used for nonattainment planning purposes. In section III.A of this document, the EPA is proposing to approve the 2012 base year inventory

for the South Coast for the purposes of the 2008 ozone NAAQS, and thus, CARB’s selection of 2012 as the base year for the South Coast VMT emissions offset demonstration for the 2008 ozone NAAQS is appropriate.

The South Coast VMT emissions offset demonstration also includes the previously described three different attainment year scenarios (*i.e.*, no action, VMT offset ceiling, and projected actual). The 2016 AQMP provides a demonstration of attainment of the 2008 ozone NAAQS in the South Coast by the applicable attainment date, based on the controlled 2031 emissions inventory. As described in section III.D of this document, the EPA is proposing to approve the attainment demonstration for the 2008 ozone NAAQS for the South Coast, and thus, we find CARB’s selection of year 2031 as the attainment year for the VMT emissions offset demonstration for the 2008 ozone NAAQS to be acceptable.

Table 14 summarizes the relevant distinguishing parameters for each of the emissions scenarios and shows CARB’s corresponding VOC emissions estimates for the demonstration for the 2008 ozone NAAQS.

TABLE 14—VMT EMISSIONS OFFSET INVENTORY SCENARIOS AND RESULTS FOR 2008 OZONE NAAQS

Scenario	VMT		Starts		Controls	VOC Emissions
	Year	1000/day	Year	1000/day	Year	tpd
Base Year	2012	380,248	2012	69,789	2012	138
No Action	2031	408,964	2031	78,894	2012	64
VMT Offset Ceiling	2031	380,248	2012	69,789	2012	61
Projected Actual	2031	408,964	2031	78,894	2031	40

Source: 2016 AQMP, Appendix VI-E.

For the base year scenario, CARB ran the EMFAC2014 model for the applicable base year (*i.e.*, 2012 for the 2008 ozone NAAQS) using VMT and starts data corresponding to that year. As shown in Table 14, CARB estimates the South Coast VOC emissions at 138 tpd in 2012.

For the “no action” scenario, CARB first identified the on-road motor vehicle control programs (*i.e.*, TCSs or TCMs) put in place since the base year and incorporated into EMFAC2014 and then ran EMFAC2014 with the VMT and starts data corresponding to the applicable attainment year (*i.e.*, 2031 for the 2008 ozone NAAQS) without the emissions reductions from the on-road motor vehicle control programs put in place after the base year. Thus, the no action scenario reflects the hypothetical VOC emissions that would occur in the

attainment year in the South Coast if the CARB had not put in place any additional TCSs or TCMs after 2012. As shown in Table 14, CARB estimates the “no action” South Coast VOC emissions at 64 tpd in 2031.

For the “VMT offset ceiling” scenario, CARB ran the EMFAC2014 model for the attainment years but with VMT and starts data corresponding to base year values. Like the no action scenario, the EMFAC2014 model was adjusted to reflect the VOC emissions levels in the attainment years without the benefits of the post-base-year on-road motor vehicle control programs. Thus, the VMT offset ceiling scenario reflects hypothetical VOC emissions in the South Coast if CARB had not put in place any TCSs or TCMs after the base year and if there had been no growth in

VMT or vehicle trips between the base year and the attainment year.

The hypothetical growth in emissions due to growth in VMT and trips can be determined from the difference between the VOC emissions estimates under the “no action” scenario and the corresponding estimates under the “VMT offset ceiling” scenario. Based on the values in Table 14, the hypothetical growth in emissions due to growth in VMT and trips in the South Coast would have been 3 tpd (*i.e.*, 64 tpd minus 61 tpd). This hypothetical difference establishes the level of VMT growth-caused emissions that need to be offset by the combination of post-baseline year TCMs and TCSs and any necessary additional TCMs and TCSs.

For the “projected actual” scenario calculation, CARB ran the EMFAC2014 model for the attainment year with VMT

and starts data at attainment year values and with the full benefits of the relevant post-baseline year motor vehicle control programs. For this scenario, CARB included the emissions benefits from TCSs and TCMs put in place since the base year. The most significant measures reducing VOC emissions during the 2012 to 2031 timeframe include the Advanced Clean Cars program, ZEV requirements, and more stringent on-board diagnostics requirements.¹³⁶

As shown in Table 14, the projected actual attainment-year VOC emissions is 40 tpd. CARB then compared this value against the corresponding VMT offset ceiling value to determine whether additional TCMs or TCSs would need to be adopted and implemented in order to offset any increase in emissions due solely to VMT and trips. Because the projected actual emissions are less than the corresponding VMT offset ceiling emissions, CARB concluded that the demonstration shows compliance with the VMT emissions offset requirement and that there are sufficient adopted TCSs and TCMs to offset the growth in emissions from the growth in VMT and vehicle trips in the South Coast for the 2008 ozone NAAQS.

3. The EPA's Review of the State's Submission

Based on our review of revised South Coast VMT emissions offset demonstration in appendix VI-E of the 2016 AQMP, we find CARB's analysis to be consistent with our August 2012 guidance and consistent with the emissions and vehicle activity estimates found elsewhere in the 2016 AQMP. We agree that CARB and SCAG have adopted sufficient TCSs and TCMs to offset the growth in emissions from growth in VMT and vehicle trips in the South Coast for the purposes of the 2008 ozone NAAQS. As such, we propose to approve the South Coast VMT emissions offset demonstration element of the 2016 South Coast Ozone SIP as meeting the requirements of CAA section 182(d)(1)(A).

G. Contingency Measures

1. Statutory and Regulatory Requirements

Under the CAA, 8-hour ozone nonattainment areas classified under subpart 2 as Moderate or above must include in their SIPs contingency

measures consistent with sections 172(c)(9) and 182(c)(9). Contingency measures are additional controls or measures to be implemented in the event the area fails to make reasonable further progress or to attain the NAAQS by the attainment date. The SIP should contain trigger mechanisms for the contingency measures, specify a schedule for implementation, and indicate that the measure will be implemented without significant further action by the state or the EPA.¹³⁷

Neither the CAA nor the EPA's implementing regulations establish a specific level of emissions reductions that implementation of contingency measures must achieve, but the EPA's 2008 Ozone SRR reiterates the EPA's policy that contingency measures should provide for emissions reductions approximately equivalent to one year's worth progress, amounting to reductions of 3 percent of the baseline emissions inventory for the nonattainment area.¹³⁸

It has been the EPA's longstanding interpretation of section 172(c)(9) that states may rely on federal measures (e.g., federal mobile source measures based on the incremental turnover of the motor vehicle fleet each year) and local measures already scheduled for implementation that provide emissions reductions in excess of those needed to provide for RFP or expeditious attainment. The key is that the statute requires that contingency measures provide for additional emissions reductions that are not relied on for RFP or attainment and that are not included in the RFP or attainment demonstrations as meeting part or all of the contingency measure requirements. The purpose of contingency measures is to provide continued emissions reductions while the plan is being revised to meet the missed milestone or attainment date.

The EPA has approved numerous SIPs under this interpretation—i.e., SIPs that use as contingency measures one or more federal or local measures that are in place and provide reductions that are in excess of the reductions required by the attainment demonstration or RFP plan,¹³⁹ and there is case law supporting the EPA's interpretation in

this regard.¹⁴⁰ However, in *Bahr v. EPA*, the Ninth Circuit rejected the EPA's interpretation of CAA section 172(c)(9) as allowing for early implementation of contingency measures.¹⁴¹ The Ninth Circuit concluded that contingency measures must take effect at the time the area fails to make RFP or attain by the applicable attainment date, not before.¹⁴² Thus, within the geographic jurisdiction of the Ninth Circuit, states cannot rely on early-implemented measures to comply with the contingency measure requirements under CAA section 172(c)(9) and 182(c)(9).¹⁴³

With respect to Extreme ozone nonattainment areas, CAA section 182(e)(5) allows the agency to exercise discretion in approving Extreme area attainment plans that rely, in part, on the future development of new control technologies or improvements of existing control technologies, where certain conditions are met. Among the conditions to qualify for reliance on section 182(e)(5) is the requirement that the state submit enforceable commitments to timely develop and adopt contingency measures to be implemented if the anticipated future technologies do not achieve planned reductions. Contingency measures submitted to comply with commitments made for the purposes of section 182(e)(5) differ in substance from contingency measures submitted to comply with sections 172(c)(9) and 182(c)(9) in that the former addresses a potential failure to meet an emissions reduction target whereas the latter address a potential failure to meet an ambient concentration target (i.e., in this case, the 2008 ozone NAAQS). However, in our 2008 Ozone SRR, we recognized the inherent difficulty in identifying specific contingency measures to be triggered upon a failure to attain the NAAQS by the applicable attainment date in Extreme nonattainment areas that rely on the new technology provisions in section 182(e)(5) to demonstrate attainment, and thus, we allow states to submit, for such

¹⁴⁰ See, e.g., *LEAN v. EPA*, 382 F.3d 575 (5th Cir. 2004) (upholding contingency measures that were previously required and implemented where they were in excess of the attainment demonstration and RFP SIP).

¹⁴¹ *Bahr v. EPA*, 836 F.3d 1218, at 1235–1237 (9th Cir. 2016).

¹⁴² *Id.* at 1235–1237.

¹⁴³ The *Bahr v. EPA* decision involved a challenge to an EPA approval of contingency measures under the general nonattainment area plan provisions for contingency measures in CAA section 172(c)(9), but, given the similarity between the statutory language in section 172(c)(9) and the ozone-specific contingency measure provision in section 182(c)(9), we find that the decision affects how both sections of the Act must be interpreted.

¹³⁶ Attachment V-E-1 to appendix VI of the 2016 AQMP includes a list of the State's transportation control strategies adopted by CARB since 1990. Also see EPA final action on CARB mobile source SIP submittals at 81 FR 39424 (June 16, 2016), 82 FR 14446 (March 21, 2017), and 83 FR 23232 (May 18, 2018).

¹³⁷ 70 FR 71612 (November 29, 2005). See also 2008 Ozone SRR, 80 FR 12264, at 12285 (March 6, 2015).

¹³⁸ 80 FR 12264 at 12285 (March 6, 2015).

¹³⁹ See, e.g., 62 FR 15844 (April 3, 1997) (direct final rule approving an Indiana ozone SIP revision); 62 FR 66279 (December 18, 1997) (final rule approving an Illinois ozone SIP revision); 66 FR 30811 (June 8, 2001) (direct final rule approving a Rhode Island ozone SIP revision); 66 FR 586 (January 3, 2001) (final rule approving District of Columbia, Maryland, and Virginia ozone SIP revisions); and 66 FR 634 (January 3, 2001) (final rule approving a Connecticut ozone SIP revision).

areas, enforceable commitments to develop and adopt contingency measures meeting the requirements of section 182(e)(5) to satisfy the requirements for both attainment contingency measures in CAA sections 172(c)(9) and 182(c)(9).¹⁴⁴ These enforceable commitments must obligate the state to submit the required contingency measures (*i.e.*, contingency measures to be triggered if the emissions reduction target under section 182(e)(5) is not met and contingency measures to be triggered if the area fails to attain the NAAQS by the applicable attainment date) to the EPA no later than three years before any applicable implementation date, in accordance with section 182(e)(5).¹⁴⁵

2. Summary of the State's Submission

The District and CARB had largely prepared the 2016 AQMP prior to the *Bahr v. EPA* decision, and thus, it relies solely upon surplus emissions reductions from already implemented control measures in the RFP milestone years to demonstrate compliance with the RFP milestone contingency measure requirements of CAA sections 172(c)(9) and 182(c)(9).¹⁴⁶ Because the attainment demonstration for the 2008 ozone NAAQS relies on CAA section 182(e)(5) reductions in the 2016 State Strategy, CARB has submitted a commitment to develop, adopt, and submit contingency measures by 2028 if the section 182(e)(5) measures do not achieve planned reductions.¹⁴⁷ More recently, in a letter from CARB dated May 20, 2019, CARB clarified that the commitment to submit contingency measures as needed to address shortfalls in the emissions reductions anticipated by new technology measures under section 182(e)(5) also includes a commitment to submit by 2028 contingency measures to be triggered upon a failure to attain the 2008 ozone NAAQS in the South Coast by the applicable attainment date as required under sections 172(c)(9) and 182(c)(9).¹⁴⁸

In the 2018 SIP Update, CARB revises the RFP demonstration for the 2008 ozone NAAQS for the South Coast and recalculates the extent of surplus emission reductions (*i.e.*, surplus to meeting the RFP milestone requirement for a given milestone year) in the milestone years. In light of the *Bahr v. EPA* decision, however, the 2018 SIP Update does not rely on the surplus or

incremental emissions reductions to comply with the contingency measures requirements of sections 172(c)(9) and 182(c)(9) but, to provide context in which to review contingency measures for the 2008 ozone NAAQS, the 2018 SIP Update documents the extent to which future baseline emissions would provide surplus emissions reductions beyond those required to meet applicable RFP milestones.¹⁴⁹ More specifically, the 2018 SIP Update identifies one year's worth of RFP as approximately 16 tpd and estimates surplus NO_x reductions as ranging from approximately 170 tpd to 250 tpd depending upon the particular RFP milestone year.

To comply with sections 172(c)(9) and 182(c)(9), as interpreted in the *Bahr v. EPA* decision, the state must develop, adopt and submit a contingency measure to be triggered upon a failure to meet RFP milestones or failure to attain the NAAQS by the applicable attainment date regardless of the extent to which already-implemented measures would achieve surplus emissions reductions beyond those necessary to meet RFP milestones and beyond those predicted to achieve attainment of the NAAQS. Therefore, to fully address the contingency measure requirement for the 2008 ozone NAAQS in the South Coast, the District has committed to develop, adopt and submit a contingency measure to CARB in sufficient time to allow CARB to submit the contingency measure as a SIP revision to the EPA within 12 months of the EPA's final conditional approval of the contingency measure element of the 2016 South Coast Ozone SIP.¹⁵⁰ The District's specific commitment is to modify one (or more) existing rule, or adopt a new rule or rules, that would include a more stringent requirement or remove an exemption if the EPA determines that the South Coast nonattainment area has missed an RFP milestone for the 2008 ozone NAAQS. More specifically, the District has identified a list of 12 different rules that the District is reviewing for inclusion of potential contingency provisions. The rules and the types of revisions under review for contingency purposes include: New Rule 1109.1 (NO_x Emission Reductions From Refinery Equipment) (contingency to remove an exemption (*e.g.*, low-use exemption) for a specific refinery equipment category); existing Rule 1110.2 (Emissions from

Gaseous- and Liquid-Fueled Engines) (contingency to remove exemptions for orchard wind machines powered by internal combustion engines and agricultural stationary engines); and existing Rule 1117 (Emissions of Oxides of Nitrogen from Glass Melting Furnaces) (contingency to remove exemptions for idling furnaces and furnaces used in the melting of glass for the production of fiberglass exclusively), among others.

CARB has attached the District's commitment to revise a rule to a letter committing to adopt and submit the revised rule to the EPA within one year of the EPA's final action on the contingency measure element of the 2016 South Coast Ozone Plan.¹⁵¹

3. The EPA's Review of the State's Submission

Sections 172(c)(9) and 182(c)(9) require contingency measures to address potential failure to achieve RFP milestones or failure to attain the NAAQS by the applicable attainment date. For the purposes of evaluating the contingency measure element of the 2016 South Coast Ozone SIP, we find it useful to distinguish between contingency measures to address potential failure to achieve RFP milestones ("RFP contingency measures") and contingency measures to address potential failure to attain the NAAQS ("attainment contingency measures").

With respect to the RFP contingency measure requirement, we have reviewed the surplus emissions estimates in each of the RFP milestone years, as shown in the 2018 SIP Update, and find that the calculations are correct. We therefore agree that the 2016 South Coast Ozone SIP provides surplus emissions reductions well beyond those necessary to demonstrate RFP in all of the RFP milestone years. While such surplus emissions reductions in the RFP milestone years do not represent contingency measures themselves, we believe they are relevant in evaluating the adequacy of RFP contingency measures that are submitted (or will be submitted) to meet the requirements of sections 172(c)(9) and 182(c)(9).

In this case, the District and CARB have committed to develop, adopt and submit a revised District rule or rules, or a new rule or rules, as an RFP contingency measure within one year of our final action on the 2016 South Coast Ozone SIP. The specific types of

¹⁴⁴ 80 FR 12264, at 12285–12286 (March 6, 2015).

¹⁴⁵ *Id.*

¹⁴⁶ 2016 AQMP, 4–51 and 4–52; appendix VI–C, pages V–C–1–V–C–4.

¹⁴⁷ CARB Board Resolution 7–18, 9.

¹⁴⁸ Letter dated May 20, 2019, from Michael Benjamin, CARB, to Amy Zimpfer, EPA Region IX.

¹⁴⁹ 2018 SIP Update, chapter IX, tables IX–2, IX–5 and IX–6.

¹⁵⁰ Letters dated January 29, 2019 and May 2, 2019, from Wayne Nastri, SCAQMD Executive Officer, to Richard Corey, Executive Officer, CARB.

¹⁵¹ Letters dated February 13, 2019, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region IX, and May 20, 2019, from Michael Benjamin, CARB, to Amy Zimpfer, EPA Region IX.

revisions the District has committed to make, such as increasing the stringency of an existing requirement or removing an exemption, upon an RFP milestone failure would comply with the requirements in CAA sections 172(c)(9) and 182(c)(9) because they would be undertaken if the area fails to meet an RFP milestone and would take effect without significant further action by the state or the EPA.

Next, we considered the adequacy of the RFP contingency measure (once adopted and submitted) from the standpoint of the magnitude of emissions reductions the measure would provide (if triggered). Neither the CAA nor the EPA's implementing regulations for the ozone NAAQS establish a specific amount of emissions reductions that implementation of contingency measures must achieve, but we generally expect that contingency measures should provide for emissions reductions approximately equivalent to one year's worth of RFP, which, for ozone, amounts to reductions of 3 percent of the baseline emissions inventory for the nonattainment area. For the 2008 ozone NAAQS in the South Coast, one year's worth of RFP is approximately 16 tpd of VOC or NO_x reductions.¹⁵²

In this instance, because of the nature of the District's intended contingency measure (*i.e.*, to modify an existing rule or rules to increase the stringency or to remove an exemption), the District did not quantify the potential additional emission reductions from its contingency measure commitment, but we believe that it is unlikely that the RFP contingency measure, once adopted and submitted, will achieve one year's worth of RFP (*i.e.*, 16.0 tpd of NO_x or VOC) given the types of rule revisions under consideration and the magnitude of emissions reductions constituting one year's worth of RFP. However, the 2018 SIP Update provides the larger SIP planning context in which to judge the adequacy of the to-be-submitted District contingency measure by calculating the surplus emissions reductions estimated to be achieved in the RFP milestone years. More specifically, Table IX-2 in the 2018 SIP Update identified surplus NO_x reductions in the various RFP milestone years. For the South Coast, the estimates of surplus NO_x reductions vary for each RFP milestone year but range from a minimum of 31.5 percent in milestone year 2017 to 47.2 percent

in milestone year 2023.¹⁵³ These represent values that far eclipse one year's worth of RFP (approximately 16 tpd or 3 percent) and that provide the basis to conclude that the risk of any failure to achieve an RFP milestone for the 2008 ozone NAAQS in the South Coast is very low. The surplus reflects already implemented regulations and is primarily the result of vehicle turnover, which refers to the ongoing replacement by individuals, companies, and government agencies of older, more polluting vehicles and engines with newer vehicles and engines designed to meet more stringent CARB mobile source emission standards. In light of the extent of surplus NO_x emissions reductions in the RFP milestone years, the emissions reductions from the District contingency measure would be sufficient to meet the contingency measure requirements of the CAA with respect to RFP milestones, even though the measure would likely achieve emissions reductions lower than the EPA normally recommends for reductions from such a measure.

With respect to the attainment contingency measure requirement, we are proposing to approve the attainment demonstration for the 2008 Ozone NAAQS in the 2016 South Coast Ozone SIP that relies in part on new technology provisions under CAA section 182(e)(5). In connection with the proposed approval of the attainment demonstration, we are proposing to approve CARB's commitment to develop, adopt and submit contingency measures by 2028 (three years prior to the attainment year) if new technology measures do not achieve planned reductions. CARB has clarified that the commitment to submit contingency measures as necessary to address shortfalls in emissions reductions from new technology measures also includes a commitment to submit attainment contingency measures.

The EPA allows states to submit, for Extreme areas, enforceable commitments to develop and adopt contingency measures meeting the requirements of section 182(e)(5) to satisfy the requirements for both attainment contingency measures in CAA sections 172(c)(9) and 182(c)(9).¹⁵⁴ We find that CARB's commitment, as clarified by CARB to include attainment contingency measures, provides an adequate basis to defer submittal of attainment contingency measures for the South Coast for the 2008 ozone NAAQS until 2028.

For these reasons, we propose to approve conditionally the RFP contingency measure element of the 2016 South Coast Ozone SIP as supplemented by commitments from the District and CARB to adopt and submit an additional contingency measure, to meet the RFP contingency measure requirements of CAA sections 172(c)(9) and 182(c)(9). Our proposed approval is conditional because it relies upon commitments to adopt and submit a specific enforceable contingency measure (*i.e.*, a revised or new District rule or rules with contingent provisions). Conditional approvals are authorized under CAA section 110(k)(4) of the CAA. We also propose to find that CARB's commitment to submit attainment contingency measures provides an adequate basis to defer submittal of attainment contingency measures meeting the requirements in CAA sections 172(c)(9) and 182(c)(9) until 2028.

H. Clean Fuels or Advanced Control Technology for Boilers

1. Statutory and Regulatory Requirements

Section 182(e)(3) of the CAA provides that SIPs for Extreme nonattainment areas require each new, modified, and existing electric utility and industrial and commercial boiler that emits more than 25 tpy of NO_x to either burn as its primary fuel natural gas, methanol, or ethanol (or a comparably low-polluting fuel), or use advanced control technology, such as catalytic control technologies or other comparably effective control methods.

Additional guidance on this requirement is provided in the General Preamble at 13523. In the General Preamble, the EPA states that, for the purposes of CAA section 182(a)(3), a boiler should generally be considered as any combustion equipment used to produce steam and generally does not include a process heater that transfers heat from combustion gases to process streams.¹⁵⁵ In addition, boilers with rated heat inputs less than 15 million British thermal units (MMBtu) per hour that are oil- or gas-fired may generally be considered *de minimis* and exempt from these requirements because it is unlikely that they will exceed the 25 tpy NO_x emission limit.¹⁵⁶

2. Summary of the State's Submission

The 2016 AQMP discusses compliance with the requirements of CAA section 182(e)(3) by reference to

¹⁵² The 2011 baseline for NO_x and VOC is 534.3 tpd and 522.0 tpd, respectively, as shown in tables IX-1 and IX-2 of the 2018 SIP Update. Three percent of the baselines is 16.0 tpd of NO_x and 15.7 tpd of VOC, respectively.

¹⁵³ 2018 SIP Update, Table IX-2.

¹⁵⁴ 80 FR 12264, at 12285-12286 (March 6, 2015)

¹⁵⁵ See General Preamble, 57 FR 13498 at 13523 (April 16, 1992).

¹⁵⁶ Id at 13524.

District Rules 2002 (“Allocations for Oxides of Nitrogen (NO_x) and Oxides of Sulfur (SO_x)”), 1146 (“Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters”) and 1303 (“Requirements”).¹⁵⁷ In the 2016 AQMP, the District notes that, under District Rule 1303, a new or modified boiler emitting at least 10 tpy of NO_x or VOC is required to employ best available control technology (BACT), which, under the District’s rule, must be at least as stringent as the lowest achievable emission rate (LAER) as defined in CAA section 171(3).

In February 2019, the District further clarified that, with respect to sources subject to the District’s Regulation XX (“Regional Clean Air Incentives Market” or “RECLAIM”), compliance with CAA section 182(e)(3) is provided through District Rule 2004 (“Requirements”), paragraph (h), which requires each new, modified and existing electric utility and industrial and commercial boiler emitting more than 25 tpy per year of NO_x to burn clean fuel or use advanced control technology.¹⁵⁸

The District’s February 2019 letter also provided analysis reviewing emission reports from boilers in its annual emissions reporting system from 2015, 2016, and 2017. This analysis found that there was only one unit emitting more than 25 tpy of NO_x not already meeting the clean fuel requirement: The Los Angeles County Sanitation District Landfill in Puente Hills. This facility is subject to NO_x emissions limits in District Rule 1146.

3. The EPA’s Review of the State’s Submission

Currently, within the South Coast, boilers that are subject to the requirements of CAA section 182(e)(3) fall into two broad categories: (1) Boilers that are subject to the District’s RECLAIM regulation, and (2) boilers that are not subject to RECLAIM. Boilers that are subject to RECLAIM must comply with District Rule 2004, paragraph (h), that sets forth requirements that essentially mirror those set forth in CAA section 182(e)(3). Thus we agree with the District that Rule 2004(h) satisfies the SIP requirement in CAA section 182(e)(3) with respect to boilers included in the RECLAIM program. We most recently approved Rule 2004 into the SIP at 73 FR 38122 (July 3, 2008).

¹⁵⁷ See tables 6–1 and 6–2 of chapter 6 of the 2016 AQMP.

¹⁵⁸ See letter dated February 13, 2019, from Philip Fine, Ph.D., Deputy Executive Officer, SCAQMD, to Elizabeth Adams, Director, Air Division, EPA Region IX.

As to boilers that are not subject to RECLAIM, for the reasons given below, we agree with the District that the requirements are met through implementation of District Rule 1146 for existing boilers and through implementation of District Regulation XIII (“New Source Review”), specifically, Rule 1303, for new and modified boilers. We approved District Rules 1146 and 1303 into the SIP at 79 FR 57442 (September 25, 2014) and 61 FR 64291 (December 4, 1996), respectively.

First, we have reviewed Rule 1146 and find that it applies to boilers of equal to or greater than 5 MMBtu per hour heat rate input capacity used in all industrial, institutional, and commercial operations with the exception of RECLAIM facilities.¹⁵⁹ That is, it regulates large boilers in the South Coast not participating in the RECLAIM program. Rule 1146 requires compliance with specified numeric limits that are based on the type of unit, and it allows for combustion of fuel that may not necessarily be natural gas, methanol, ethanol, or other comparably low polluting fuel. The emission limits for these other fuels, includes units fired on digester or landfill gas, are 15 ppm by volume and 25 ppm by volume, respectively. According to the District’s analysis as noted above, the only unit firing on these fuels that also must comply with the requirements of CAA section 182(e)(3) is the Los Angeles County Sanitation District Landfill in Puente Hills, which combusts recovered landfill gas and must achieve the limits for landfill gas-fired units as required in District Rule 1146.

Second, we have reviewed District Rule 1303 and find that it provides for denial of a permit to construct for any new or modified source that results in an emission increases of any nonattainment pollutants unless BACT is employed for the new or modified source.¹⁶⁰ The District defines BACT in essentially the same way as the CAA section 171(3) defines LAER.¹⁶¹ District Rule 1303 thus ensures that new or modified boilers in the South Coast that are not subject to RECLAIM comply

¹⁵⁹ We note that the applicability section of Rule 1146 lists certain categories of sources that are not subject to its requirements in addition to RECLAIM facilities, such as boilers used by electric utilities to generate electricity and large boilers used in petroleum refineries. However, the types of boilers that are categorically excepted by Rule 1146 are in fact included in the RECLAIM program in the South Coast and thus are subject to Rule 2004(h), which provides for compliance with CAA section 182(e)(3).

¹⁶⁰ District Rule 1303(a).

¹⁶¹ District Rule 1302 (“Definitions”), paragraph (f) (“Best Available Control Technology”).

with the requirements in CAA section 182(e)(3).

For the reasons given above, we find that the requirements for new, modified and existing boilers in approved District Rules 1303, 1146 and 2004 satisfy the clean fuel or advanced control technology for boilers requirement in CAA section 182(e)(3), and based on this finding, we propose to approve the clean fuels for boilers element of the 2016 South Coast Ozone SIP.

I. Motor Vehicle Emissions Budgets for Transportation Conformity

1. Statutory and Regulatory Requirements

Section 176(c) of the CAA requires federal actions in nonattainment and maintenance areas to conform to the SIP’s goals of eliminating or reducing the severity and number of violations of the NAAQS and achieving timely attainment of the standards. Conformity to the SIP’s goals means that such actions will not: (1) Cause or contribute to violations of a NAAQS, (2) worsen the severity of an existing violation, or (3) delay timely attainment of any NAAQS or any interim milestone.

Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the EPA’s transportation conformity rule, codified at 40 CFR part 93, subpart A. Under this rule, MPOs in nonattainment and maintenance areas coordinate with state and local air quality and transportation agencies, the EPA, the FHWA, and the FTA to demonstrate that an area’s regional transportation plans and transportation improvement programs conform to the applicable SIP. This demonstration is typically done by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the motor vehicle emissions budgets (MVEBs or “budgets”) contained in all control strategy SIPs. Budgets are generally established for specific years and specific pollutants or precursors. Ozone plans should identify budgets for on-road emissions of ozone precursors (NO_x and VOC) in the area for each RFP milestone year and the attainment year, if the plan demonstrates attainment.¹⁶²

For budgets to be approvable, they must meet, at a minimum, the EPA’s adequacy criteria (40 CFR 93.118(e)(4)). To meet these requirements, the budgets must be consistent with the attainment and RFP requirements and reflect all of the motor vehicle control measures

¹⁶² 40 CFR 93.102(b)(2)(i).

contained in the attainment and RFP demonstrations.¹⁶³

The EPA's process for determining adequacy of a budget consists of three basic steps: (1) Providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the budget during a public comment period; and, (3) making a finding of adequacy or inadequacy.¹⁶⁴

2. Summary of the State's Submission

The 2016 AQMP included budgets for the 2018, 2021, 2024, 2027, and 2030 RFP milestone years, and the 2031 attainment year. The budgets for 2018, 2021, 2024, 2027 and 2030 were derived from the 2012 RFP baseline year and the associated RFP milestone years. As such, the budgets are affected by the *South Coast II* decision vacating the alternative baseline year provision, and therefore, the EPA has not previously acted on the budgets.

On December 5, 2018, CARB submitted the 2018 SIP Update, which revises the RFP demonstration consistent with the *South Coast II* decision (*i.e.*, by using a 2011 RFP baseline year) and identifies new budgets for the South Coast for VOC and NO_x for each updated RFP milestone year through 2030 and for the attainment year, 2031. The budgets in this 2018 SIP Update replace all of the budgets contained in the 2016 AQMP.

Like the budgets in the 2016 AQMP, the budgets in the 2018 SIP Update were calculated using EMFAC2014, CARB's latest approved version of the EMFAC model for estimating emissions from on-road vehicles operating in California, and are rounded up to the nearest whole number. However, the budgets in the 2018 SIP Update reflect updated VMT estimates from the 2016–2040 Regional Transportation Plan/Sustainable Communities Strategy, Amendment 2, adopted by SCAG in July 2017. Given the use of updated travel data and CARB's convention of rounding emissions up to the nearest whole number, there are some differences between the budgets and the emissions inventories in the 2018 SIP Update for the RFP demonstration and in the 2016 AQMP for the attainment demonstration, but the differences are quite small and do not impact the RFP or attainment demonstrations.¹⁶⁵ The

¹⁶³ 40 CFR 93.118(e)(4)(iii), (iv) and (v). For more information on the transportation conformity requirements and applicable policies on MVEBs, please visit our transportation conformity website at: <http://www.epa.gov/otaq/stateresources/transconf/index.htm>.

¹⁶⁴ 40 CFR 93.118(f)(2).

¹⁶⁵ For instance, the 2016 AQMP estimates that 2031 on-road vehicle emissions (summer planning

conformity budgets for NO_x and VOC in the 2018 SIP Update for the South Coast are provided in Table 15 below.

TABLE 15—TRANSPORTATION CONFORMITY BUDGETS FOR THE 2008 OZONE NAAQS IN THE SOUTH COAST

[Summer planning inventory, tpd]

Budget year	VOC	NO _x
2020	80	141
2023	68	89
2026	60	77
2029	54	69
2031	50	66

Source: Table IX–3 of the 2018 SIP Update.

3. The EPA's Review of the State's Submission

As part of our review of the approvability of the budgets in the 2018 SIP Update, we have evaluated the budgets using our adequacy criteria in 40 CFR 93.118(e)(4) and (5). We will complete the adequacy review concurrent with our final action on the 2016 South Coast Ozone SIP. The EPA is not required under its transportation conformity rule to find budgets adequate prior to proposing approval of them.¹⁶⁶

As documented in Table 4 of section IV of the EPA's TSD for this proposal, we find that the budgets in the 2018 SIP Update for the South Coast meet each adequacy criterion. We have completed our detailed review of the 2016 South Coast Ozone SIP and are proposing herein to approve the SIP's attainment and RFP demonstrations. We have also reviewed the budgets in the 2018 SIP Update and found that they are consistent with the attainment and RFP demonstrations for which we are proposing approval, are based on control measures that have already been adopted and implemented, and meet all other applicable statutory and regulatory requirements including the adequacy criteria in 40 CFR 93.118(e)(4) and (5). Therefore, we are proposing to find adequate and approve the 2020, 2023, 2026, 2029 and 2031 MVEBs in the 2018 SIP Update (and shown in Table 15, above). If we finalize our adequacy determination and approval of the budgets for the 2008

inventory) would be 49.50 tpd for VOC and 64.99 tpd for NO_x. See attachment B to appendix III of the 2016 AQMP. The corresponding budgets from the 2018 SIP Update are 50 tpd for VOC and 66 tpd for NO_x.

¹⁶⁶ Under the transportation conformity regulations, the EPA may review the adequacy of submitted motor vehicle emission budgets simultaneously with the EPA's approval or disapproval of the submitted implementation plan. 40 CFR 93.118(f)(2).

ozone NAAQS in the 2018 SIP Update, as proposed, then they will replace the budgets for the 1997 ozone NAAQS from the 2007 South Coast Ozone SIP that we previously found adequate and approved for use in transportation conformity determinations.¹⁶⁷

Under our transportation conformity rule, as a general matter, once budgets are approved, they cannot be superseded by revised budgets submitted for the same CAA purpose and the same period of years addressed by the previously approved SIP until the EPA approves the revised budgets as a SIP revision. In other words, as a general matter, such approved budgets cannot be superseded by revised budgets found adequate, but rather only through approval of the revised budgets, unless the EPA specifies otherwise in its approval of a SIP by limiting the duration of the approval to last only until subsequently submitted budgets are found adequate.¹⁶⁸

In this instance, CARB has requested that we limit the duration of our approval of the budgets in the 2016 South Coast Ozone SIP only until the effective date of the EPA's adequacy finding for any subsequently submitted budgets.¹⁶⁹ Generally, we will consider a state's request to limit an approval of a MVEB only if the request includes the following elements:¹⁷⁰

- An acknowledgement and explanation as to why the budgets under consideration have become outdated or deficient;
- A commitment to update the budgets as part of a comprehensive SIP update; and
- A request that the EPA limit the duration of its approval to the time when new budgets have been found to be adequate for transportation conformity purposes.

CARB's request includes an explanation for why the budgets have

¹⁶⁷ We found adequate and approved the MVEBs from the 2007 South Coast Ozone SIP for the 1997 ozone NAAQS at 77 FR 12674, 12693 (March 1, 2012). The MVEBs in the 2018 SIP Update for the 2008 ozone NAAQS are lower than the corresponding MVEBs approved for the 1997 ozone NAAQS. For instance, the current MVEBs of 108 tpd for VOC and 185 tpd for NO_x for 2020, and 99 tpd for VOC and 140 tpd for NO_x for 2023, would be replaced by MVEBs of 80 tpd for VOC and 141 tpd for NO_x in 2020, and 68 tpd for VOC and 89 tpd for NO_x in 2023.

¹⁶⁸ 40 CFR 93.118(e)(1).

¹⁶⁹ CARB's request to limit the duration of the approval of the South Coast ozone MVEB is contained in letters dated December 5, 2018, from Richard Corey, Executive Officer, California Air Resources Board, to Mike Stoker, Regional Administrator, EPA Region IX, and May 20, 2019, from Michael Benjamin, California Air Resources Board, to Amy Zimpfer, EPA Region IX.

¹⁷⁰ 67 FR 69141 (November 15, 2002), limiting our prior approval of MVEB in certain California SIPs.

become, or will become, outdated or deficient. In short, CARB has requested that we limit the duration of the approval of the budgets in anticipation, in the near term, of approval by the EPA of EMFAC2017, an updated version of the model used for the budgets in the 2016 South Coast Ozone SIP. EMFAC2017 updates vehicle mix and emissions data of the currently approved version of the model, EMFAC2014.

Preliminary calculations by CARB indicate that EMFAC2017-derived budgets for the South Coast will exceed the corresponding EMFAC2014-derived budgets in the 2016 South Coast Ozone SIP. Upon approval of EMFAC2017, CARB explains that the budgets from the 2016 South Coast Ozone SIP, for which we are proposing approval in today's action, will become outdated and will need to be revised using EMFAC2017 within the grace period established in our approval of EMFAC2017 to provide for a new conformity determination for the South Coast regional transportation plan and program. In addition, CARB states that, without the ability to replace the budgets using the budget adequacy process, the benefits of using the updated data may not be realized for a year or more after the updated SIP (with the EMFAC2017-derived budgets) is submitted, due to the length of the SIP approval process. We find that CARB's explanation for limiting the duration of the approval of the budgets is appropriate and provides us with a reasonable basis on which to limit the duration of the approval of the budgets.

We note that CARB has not committed to update the budgets as part of a comprehensive SIP update, but as a practical matter, CARB must submit a SIP revision that includes updated demonstrations as well as the updated budgets to meet the adequacy criteria in 40 CFR 93.118(e)(4);¹⁷¹ and thus, we do not need a specific commitment for such a plan at this time. For the reasons provided above, and in light of CARB's explanation for why the budgets will become outdated and should be replaced upon an adequacy finding for updated budgets, we propose to limit the duration of our approval of the budgets in the 2016 South Coast Ozone SIP until new budgets have been found adequate.

¹⁷¹ Under 40 CFR 93.118(e)(4), the EPA will not find a budget in a submitted SIP to be adequate unless, among other criteria, the budgets, when considered together with all other emissions sources, are consistent with applicable requirements for RFP and attainment. 40 CFR 93.118(e)(4)(iv).

J. General Conformity Budgets

1. Statutory and Regulatory Requirements

Section 176(c) of the CAA requires federal actions in nonattainment and maintenance areas to conform to the SIP's goals of eliminating or reducing the severity and number of violations of the NAAQS and achieving timely attainment of the standards. Conformity to the SIP's goals means that such actions will not: (1) Cause or contribute to violations of a NAAQS, (2) worsen the severity of an existing violation, or (3) delay timely attainment of any NAAQS or any interim milestone.

Section 176(c)(4) of the CAA establishes the framework for general conformity. The EPA first promulgated general conformity regulations in November 1993.¹⁷² The EPA revised the general conformity regulations on April 5, 2010 (75 FR 17254). The general conformity regulations ensure that federal actions not covered by the transportation conformity rule will not interfere with the SIP and encourage consultation between the federal agency and the state or local air pollution control agencies before or during the environmental review process, as well as public participation (e.g., notification of and access to federal agency conformity determinations and review of individual federal actions).

The general conformity regulations provide three phases: Applicability analysis, conformity determination, and review process. The applicability analysis phase under 40 CFR 93.153 is used to find if a federal action requires a conformity determination for a specific pollutant. If a conformity determination is needed, federal agencies can use one of several methods to show that the project conforms to the SIP. In an area without a SIP, a federal action may be shown to "conform" by demonstrating there will be no net increase in emissions in the nonattainment or maintenance area from the federal action. In an area with a SIP, conformity to the applicable SIP can be demonstrated in one of several ways. For actions where the direct and indirect emissions exceed the rates in 40 CFR 93.153(b), the federal action can include mitigation measures to offset the emission increases from the federal action or can show that the action will conform by meeting any of the following requirements:

- Showing that the net emission increases caused by an action are included in the SIP,

¹⁷² 40 CFR part 51, subpart W, and 40 CFR part 93, subpart B.

- documenting that the state agrees to include the emission increases in the SIP,
- offsetting the action's emissions in the same or nearby area of equal or greater classification, or
- providing an air quality modeling demonstration in some circumstances.¹⁷³

The general conformity regulations at 40 CFR 93.161 allow state and local air quality agencies working with federal agencies with large facilities (e.g., commercial airports, ports, and large military bases) that are subject to the general conformity regulations to develop and adopt an emissions budget for those facilities in order to facilitate future conformity determinations. Such a budget, referred to as a facility-wide emission budget, may be used by federal agencies to demonstrate conformity as long as the total facility-wide budget level identified in the SIP is not exceeded.

According to 40 CFR 93.161, the state or local agency responsible for implementing and enforcing the SIP can develop and adopt an emissions budget to be used for demonstrating conformity under 40 CFR 93.158(a)(1). The requirements include the following: (1) The facility-wide budget must be for a set time period; (2) the budget must cover the pollutants or precursors of the pollutants for which the area is designated nonattainment or maintenance; (3) the budgets must be specific about what can be emitted on an annual or seasonal basis; (4) the emissions from the facility along with all other emissions in the area must not exceed the total SIP emissions budget for the nonattainment or maintenance area; (5) specific measures must be included to ensure compliance with the facility-wide budget, such as periodic reporting requirements or compliance demonstrations when the federal agency is taking an action that would otherwise require a conformity determination; (6) the budget must be submitted to the EPA as a SIP revision; and (7) the SIP revision must be approved by the EPA. Having or using a facility-wide emissions budget does not preclude a federal agency from demonstrating conformity in any other manner allowed by the conformity rule.

2. Summary of the State's Submission

The 2016 AQMP addresses general conformity budgets beginning on page VI-D-1 of Appendix VI and on pages III-2-85 through II-2-88 of Appendix

¹⁷³ 40 CFR 93.158; and SCAQMD Rule 1901 ("General Conformity"), approved at 64 FR 19916 (April 23, 1999).

III. To streamline the general conformity process for federal projects and to facilitate general conformity determinations, the 2016 AQMP establishes VOC and NO_x general conformity budgets of 2.0 tpd of NO_x and 0.5 tpd of VOC on an annual basis from 2017 to 2030, and budgets of 0.5 tpd of NO_x and 0.2 tpd VOC in 2031. These general conformity budgets are included in the “set-aside” account added to baseline emissions in tables 9, 10 and 11 in section III.D.2.c of this document. The general conformity budgets in the 2016 AQMP are not set aside for specific facilities per se but were developed in the anticipation of the construction and operation of certain airport development projects in the South Coast that are expected over the next decade.

Under the 2016 AQMP, emissions from general conformity projects will be tracked by the District tracking system and debited from this set-aside budget on a first-come-first-served basis until the budget has been exhausted. Any unused portions will not be carried forward into the following year. Once the budget is exhausted, federal projects can still demonstrate conformity using other provisions in the conformity rule.

3. The EPA’s Review of the State’s Submission

We propose to approve the general conformity budgets in the 2016 AQMP of NO_x and VOC of 2.0 tpd of NO_x and 0.5 tpd of VOC (on an annual basis) from 2017 to 2030, and 0.5 tpd of NO_x and 0.2 tpd VOC in 2031, as meeting the requirements of CAA section 176(c) and 40 CFR 93.161. We find that the general conformity budgets in the 2016 AQMP: Are established for set time period; cover both precursors of ozone; are precisely quantified in terms of tpd (on an annual basis); and, along with all other emissions in the South Coast, are consistent with the attainment demonstrations for the 1-hour, 1997 and 2008 ozone NAAQS. We also find that the 2016 AQMP provides a procedure (*i.e.*, the tracking system) through which the District will ensure compliance with the budgets.

If we finalize our approval of these budgets, federal agencies can use these budgets to demonstrate that their projects conform to the SIP through a letter from the State and District confirming that the project emissions are accounted for in the SIP’s general conformity budgets. The District will be responsible for tracking emissions from all projects against the budgets. Once the budgets are used, future federal projects will need to demonstrate conformity using a different method.

Any federal projects that emit criteria pollutants or pollutant precursors other than those for which general conformity budgets are established will still need to demonstrate conformity for those pollutants or precursors.

K. Other Clean Air Act Requirements Applicable to Extreme Ozone Nonattainment Areas

In addition to the SIP requirements discussed in the previous sections, the CAA includes certain other SIP requirements applicable to Extreme ozone nonattainment areas, such as the South Coast. We describe these provisions and their current status below.

1. Enhanced Vehicle Inspection and Maintenance Programs

Section 182(c)(3) of the CAA requires states with ozone nonattainment areas classified under subpart 2 as Serious or above to implement an enhanced motor vehicle I/M program in those areas. The requirements for those programs are provided in CAA section 182(c)(3) and 40 CFR part 51, subpart S.

Consistent with the 2008 Ozone SRR, no new I/M programs are currently required for nonattainment areas for the 2008 ozone NAAQS.¹⁷⁴ The EPA previously approved California’s I/M program in the South Coast as meeting the requirements of the CAA and applicable EPA regulations for enhanced I/M programs.¹⁷⁵

2. New Source Review Rules

Section 182(a)(2)(C) of the CAA requires states to develop SIP revisions containing permit programs for each of its ozone nonattainment areas. The SIP revisions are to include requirements for permits in accordance with CAA sections 172(c)(5) and 173 for the construction and operation of each new or modified major stationary source for VOC and NO_x anywhere in the nonattainment area.¹⁷⁶ The 2008 Ozone SRR includes provisions and guidance for nonattainment new source review (NSR) programs.¹⁷⁷ The EPA has previously approved the District’s NSR rules into the SIP based in part on a conclusion that the rules adequately addressed the NSR requirements specific to Extreme areas.¹⁷⁸ On

¹⁷⁴ 2008 Ozone SRR, 80 FR 12264, at 12283 (March 6, 2015), and section 3.6 of Chapter 3 of the 2016 Ozone Plan.

¹⁷⁵ 75 FR 38023 (July 1, 2010).

¹⁷⁶ See also CAA sections 182(e).

¹⁷⁷ 80 FR 12264 (March 6, 2015).

¹⁷⁸ On December 4, 1996 (61 FR 64291), the EPA approved SCAQMD’s NSR rules (the District’s Regulation XIII) for the South Coast as satisfying the NSR requirements in title I, part D of the CAA for

December 13, 2018, the EPA approved the District’s 2008 ozone certification that its NSR program previously approved into the SIP is adequate to meet the requirements for the 2008 ozone NAAQS.¹⁷⁹

3. Clean Fuels Fleet Program

Sections 182(c)(4)(A) and 246 of the CAA require California to submit to the EPA for approval measures to implement a Clean Fuels Fleet Program. Section 182(c)(4)(B) of the CAA allows states to opt-out of the federal clean-fuel vehicle fleet program by submitting a SIP revision consisting of a program or programs that will result in at least equivalent long-term reductions in ozone precursors and toxic air emissions.

In 1994, CARB submitted a SIP revision to the EPA to opt-out of the federal clean-fuel fleet program. The submittal included a demonstration that California’s low-emissions vehicle program achieved emissions reductions at least as large as would be achieved by the federal program. The EPA approved the SIP revision to opt-out of the federal program on August 27, 1999.¹⁸⁰ There have been no changes to the federal Clean Fuels Fleet program since the EPA approved the California SIP revision to opt-out of the federal program, and thus, no corresponding changes to the SIP are required. Thus, we find that the California SIP revision to opt-out of the federal program, as approved in 1999, meets the requirements of CAA sections 182(c)(4)(A) and 246 for South Coast for the 2008 ozone NAAQS.

4. Gasoline Vapor Recovery

Section 182(b)(3) of the CAA requires states to submit a SIP revision by November 15, 1992, that requires owners or operators of gasoline dispensing systems to install and operate gasoline vehicle refueling vapor recovery (“Stage II”) systems in ozone nonattainment areas classified as Moderate and above. California’s ozone nonattainment areas implemented Stage II vapor recovery well before the passage of the CAA Amendments of 1990.¹⁸¹

Section 202(a)(6) of the CAA requires the EPA to promulgate standards requiring motor vehicles to be equipped with onboard refueling vapor recovery (ORVR) systems. The EPA promulgated

Extreme ozone nonattainment areas. See also 64 FR 13514 (March 19, 1999), 71 FR 35157 (June 19, 2006), 77 FR 31200 (May 25, 2012), and 80 FR 24821 (May 1, 2015).

¹⁷⁹ 83 FR 64026 (December 13, 2018).

¹⁸⁰ 64 FR 46849 (August 27, 1999).

¹⁸¹ General Preamble, 57 FR 13498 at 13514 (April 16, 1992).

the first set of ORVR system regulations in 1994 for phased implementation on vehicle manufacturers, and since the end of 2006, essentially all new gasoline-powered light and medium-duty vehicles are ORVR-equipped.¹⁸² Section 202(a)(6) also authorizes the EPA to waive the SIP requirement under CAA section 182(b)(3) for installation of Stage II vapor recovery systems after such time as the EPA determines that ORVR systems are in widespread use throughout the motor vehicle fleet. Effective May 16, 2012, the EPA waived the requirement of CAA section 182(b)(3) for Stage II vapor recovery systems in ozone nonattainment areas regardless of classification.¹⁸³ Thus, a SIP submittal meeting CAA section 182(b)(3) is not required for the 2008 ozone NAAQS.

While a SIP submittal meeting CAA section 182(b)(3) is not required for the 2008 ozone NAAQS, under California State law (*i.e.*, Health and Safety Code section 41954), CARB is required to adopt procedures and performance standards for controlling gasoline emissions from gasoline marketing operations, including transfer and storage operations. State law also authorizes CARB, in cooperation with local air districts, to certify vapor recovery systems, to identify defective equipment and to develop test methods. CARB has adopted numerous revisions to its vapor recovery program regulations and continues to rely on its vapor recovery program to achieve emissions reductions in ozone nonattainment areas in California.

In the South Coast, the installation and operation of CARB-certified vapor recovery equipment is required and enforced by SCAQMD Rules 461 (“Gasoline Transfer and Dispensing”) and 462 (“Organic Liquid Loading”). These rules were most recently approved into the SIP on April 11, 2013, and July 21, 1999, respectively.¹⁸⁴

5. Enhanced Ambient Air Monitoring

Section 182(c)(1) of the CAA requires that all ozone nonattainment areas classified as Serious or above implement measures to enhance and improve monitoring for ambient concentrations of ozone, NO_x, and VOC, and to improve monitoring of emissions of NO_x and VOC. The enhanced monitoring network for ozone is referred to as the photochemical assessment monitoring station (PAMS) network.

The EPA promulgated final PAMS regulations on February 12, 1993.¹⁸⁵

On November 10, 1993, CARB submitted to the EPA a SIP revision addressing the PAMS network for six ozone nonattainment areas in California, including the South Coast, to meet the enhanced monitoring requirements of CAA section 182(c)(1) and the PAMS regulations. The EPA determined that the PAMS SIP revision met all applicable requirements for enhanced monitoring and approved the PAMS submittal into the California SIP.¹⁸⁶

The 2016 AQMP discusses compliance with the CAA section 182(c)(1) enhanced monitoring requirements in terms of the District’s “Annual Air Quality Monitoring Network Plan (July 2016)” (ANP).¹⁸⁷ The District’s 2016 ANP describes the steps taken to address the requirements of section 182(c)(1), includes descriptions of the PAMS program and provides additional details about the PAMS network.¹⁸⁸ The EPA has approved the District’s PAMS network as part of our annual approval of the District’s ANP.¹⁸⁹

Prior to 2006, the EPA’s ambient air monitoring regulations in 40 CFR part 58 (“Ambient Air Quality Surveillance”) set forth specific SIP requirements (see former 40 CFR 52.20). In 2006, the EPA significantly revised and reorganized 40 CFR part 58.¹⁹⁰ Under revised 40 CFR part 58, SIP revisions are no longer required; rather, compliance with EPA monitoring regulations is established through review of required annual monitoring network plans.¹⁹¹ The 2008 Ozone SRR made no changes to these requirements.¹⁹² As such, based on our review and approval of the 2016 ANP for South Coast, we find that the 2016 AQMP adequately addresses the enhanced monitoring requirements under CAA section 182(c)(1), and we

propose to approve that portion of the plan.

6. CAA Section 185 Fee Program

Sections 182(d)(3) and 185 of the CAA require that the SIP for each Severe and Extreme ozone nonattainment area provide that, if the area fails to attain by its applicable attainment date, each major stationary source of VOC and NO_x located in the area shall pay a fee to the state as a penalty for such failure for each calendar year beginning after the attainment date, until the area is redesignated as an attainment area for ozone. States are not yet required to submit a SIP revision that meets the requirements of CAA section 185 for the 2008 ozone NAAQS.¹⁹³

IV. Proposed Action

For the reasons discussed in this notice, under CAA section 110(k)(3), the EPA is proposing to approve as a revision to the California SIP the following portions of the 2016 South Coast Ozone SIP submitted by CARB on April 27, 2017, December 5, 2018, and December 20, 2018:

- Base year emissions inventory element in the 2016 AQMP as meeting the requirements of CAA sections 172(c)(3) and 182(a)(1) and 40 CFR 51.1115 for the 2008 ozone NAAQS;
- RACM demonstration element in the 2016 AQMP as meeting the requirements of CAA section 172(c)(1) and 40 CFR 51.1112(c) for the 2008 ozone NAAQS;
- Updated attainment demonstration element for the revoked 1-hour ozone NAAQS in the 2016 AQMP and the 1-Hour Ozone Update as meeting the requirements of CAA section 182(c)(2)(A);¹⁹⁴
- Updated attainment demonstration element for the revoked 1997 ozone NAAQS in the 2016 AQMP as meeting the requirements of CAA section 182(c)(2)(A);
- Attainment demonstration element for the 2008 ozone NAAQS in the 2016 AQMP as meeting the requirements of CAA section 182(c)(2)(A) and 40 CFR 51.1108;

¹⁹³ See 40 CFR 51.1117. For the South Coast, a section 185 SIP revision for the 2008 ozone NAAQS will be due on July 20, 2022.

¹⁹⁴ Because the 1-hour ozone attainment demonstration in the 1-Hour Ozone Update does not rely on advanced control technology measures under CAA section 182(e)(5), final approval of the attainment demonstration in the 1-Hour Ozone Update would fulfill CARB’s commitment, in adopting the 2012 AQMP, to achieve by January 1, 2022, aggregate emissions reductions from advanced control technology measures under CAA section 182(e)(5) or actual emission decreases that occur and to develop, adopt and submit contingency measures by 2019 if advanced control technology measures do not achieve planned reductions.

¹⁸⁵ 58 FR 8452 (February 12, 1993).

¹⁸⁶ 82 FR 45191 (September 28, 2017).

¹⁸⁷ 2016 AQMP, Table 6–2, page 6–17.

¹⁸⁸ 2016 ANP, 13–15, 28 and appendix A, 8. Starting in 2007, the EPA’s monitoring rules at 71 FR 61236 (October 17, 2006) required the submittal and EPA action on ANPs. SCAQMD’s 2016 ANP can be found in the docket for today’s action.

¹⁸⁹ Letter dated October 31, 2016, from Gwen Yoshimura, EPA Region IX to Matt Miyasoto, Deputy Executive Officer, SCAQMD, approving the 2016 South Coast ANP.

¹⁹⁰ 71 FR 61236 (October 17, 2006).

¹⁹¹ 40 CFR 58.2(b) now provides “The requirements pertaining to provisions for an air quality surveillance system in the SIP are contained in this part.”

¹⁹² The 2008 ozone SRR addresses PAMS-related requirements at 80 FR 12264, at 12291 (March 6, 2015).

¹⁸² 77 FR 28772, at 28774 (May 16, 2012).

¹⁸³ See 40 CFR 51.126(b).

¹⁸⁴ 78 FR 21542 and 64 FR 39037.

- SCAQMD's commitments in the 2016 AQMP and District Resolution 17-2 to adopt, submit, and implement certain defined measures, as listed in tables 4-2 and 4-4 of Chapter 4 in the 2016 AQMP, and to achieve specific aggregate emission reductions (shown in tables 4-9 through 4-11 of the 2016 AQMP) by 2022, 2023 and 2031 for the 1-hour ozone NAAQS, 1997 ozone NAAQS and 2008 ozone NAAQS, respectively, and to substitute any other measures as necessary to make up any emission reduction shortfall;¹⁹⁵
- CARB's commitments in the 2016 State Strategy and CARB Resolution 17-7 to bring to the CARB Board for consideration the list of proposed SIP measures outlined in the 2016 State Strategy and included in attachment A (to Resolution 17-7) according to the schedule set forth in attachment A, and to achieve the aggregate emission reductions in the South Coast of 113 tpd of NO_x and 50 to 51 tpd of VOC by 2023 for the 1997 ozone NAAQS, and 111 tpd of NO_x and 59 to 60 tpd of VOC by 2031 for the 2008 ozone NAAQS;¹⁹⁶
- The provisions in the 2016 State Strategy for the development of new technology measures for attainment of the 1997 ozone NAAQS and 2008 ozone NAAQS in the South Coast pursuant to CAA section 182(e)(5) and CARB's commitment in Resolution 17-8 to adopt and submit by 2028 contingency measures to be implemented if the new technology measures do not achieve the planned emissions reductions for the 2008 ozone NAAQS, as well as additional attainment contingency measures meeting the requirements of CAA section 172(c)(9);¹⁹⁷
- ROP demonstration element in the 2016 AQMP as meeting the requirements of CAA 182(b)(1) and 40

CFR 51.1110(a)(2) for the 2008 ozone NAAQS;

- RFP demonstration element in the 2018 SIP Update as meeting the requirements of CAA sections 172(c)(2), 182(b)(1), and 182(c)(2)(B), and 40 CFR 51.1110(a)(2)(ii) for the 2008 ozone NAAQS;
- VMT emissions offset demonstration element in the 2016 AQMP as meeting the requirements of CAA section 182(d)(1)(A) and 40 CFR 51.1102 for the 2008 ozone NAAQS;
- Clean fuels or advanced control technology for boilers element in the 2016 AQMP as meeting the requirements of CAA section 182(e)(3) and 40 CFR 51.1102 for the 2008 ozone NAAQS;
- Motor vehicle emissions budgets in the 2018 SIP Update for the RFP milestone years of 2020, 2023, 2026, 2029, and the attainment year of 2031 (see Table 15) because they are consistent with the RFP and attainment demonstrations for the 2008 ozone NAAQS proposed for approval herein and meet the other criteria in 40 CFR 93.118(e);
- General conformity budgets of NO_x and VOC of 2.0 tpd of NO_x and 0.5 tpd of VOC (on an annual basis) from 2017 to 2030, and 0.5 tpd of NO_x and 0.2 tpd of VOC in 2031, as meeting the requirements of CAA section 176(c) and 40 CFR 93.161;
- Enhanced vehicle inspection and maintenance program element in the 2016 AQMP as meeting the requirements of CAA section 182(c)(3) and 40 CFR 51.1102 for the 2008 ozone NAAQS;
- Clean fuels fleet program element in the 2016 AQMP as meeting the requirements of CAA sections 182(c)(4)(A) and 246 and 40 CFR 51.1102 for the 2008 ozone NAAQS; and
- Enhanced monitoring element in the 2016 AQMP as meeting the requirements of CAA section 182(c)(1) and 40 CFR 51.1102 for the 2008 ozone NAAQS.¹⁹⁸

With respect to the MVEBs, we are proposing to limit the duration of the approval of the MVEBs to last only until the effective date of the EPA's adequacy finding for any subsequently submitted budgets. We are doing so at CARB's request and in light of the benefits of

using EMFAC2017-derived budgets prior to our taking final action on the future SIP revision that includes the updated budgets.

We are also proposing, under CAA section 110(k)(3), to approve District Rule 301 ("Permitting and Associated Fees") (paragraphs (e)(1)(A) and (B), (e)(2), (e)(5) and (e)(8)) based on the public draft version submitted to us on May 20, 2019, for parallel processing, as meeting the requirements of CAA section 182(a)(3)(B) and 40 CFR 51.1102 for the 2008 ozone NAAQS; and

Lastly, we are proposing, under CAA section 110(k)(4), to approve conditionally the contingency measure element of the 2016 South Coast Ozone SIP as meeting the requirements of CAA sections 172(c)(9) and 182(c)(9) for RFP contingency measures. Our proposed approval is based on commitments by the District and CARB to supplement the element through submission, as a SIP revision (within one year of final conditional approval action), of a new or revised District rule or rules that would include a more stringent requirement or would remove an exemption if an RFP milestone is not met.¹⁹⁹

The EPA is soliciting public comments on the issues discussed in this document. We will accept comments from the public on this proposal for the next 30 days and will consider comments before taking final action. With respect to District Rule 301 (paragraphs (e)(1)(A) and (B), (e)(2), (e)(5) and (e)(8)), in addition to consideration of public comments, we will not take final action until the District completes its public review and adoption process and until CARB submits the final adopted version of the relevant portions of the District rule to the EPA for approval as a revision to the California SIP.

V. Incorporation by Reference

In this action, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference portions of District Rule 301 regarding emissions statement requirements discussed in section III.B of this

¹⁹⁵ Final approval of SCAQMD's commitments in the 2016 AQMP would update the corresponding commitments made by the District in the 2007 South Coast Ozone SIP for the 1997 ozone NAAQS and in the 2012 AQMP for both the 1997 ozone NAAQS and the 1-hour ozone NAAQS.

¹⁹⁶ Final approval of CARB's commitments in the 2016 State Strategy for the South Coast would update the corresponding commitments by CARB in the 2007 South Coast Ozone SIP for the 1997 ozone NAAQS.

¹⁹⁷ For the purposes of the 2007 South Coast Ozone SIP, CARB committed to develop, adopt and submit by 2020 contingency measures to be implemented if the new technologies do not achieve the planned emissions reductions for the 1997 ozone NAAQS, as well as additional attainment contingency measures meeting the requirements of CAA section 172(c)(9). The EPA approved that commitment at 77 FR 12674, 12695 (March 1, 2012). CARB's pre-existing commitments with respect to section 182(e)(5) and section 172(c)(9) attainment contingency measures for the South Coast for the 1997 ozone NAAQS are not affected by today's proposed action on the 2016 South Coast Ozone SIP.

¹⁹⁸ Regarding other applicable requirements for the 2008 ozone NAAQS in the South Coast, the EPA has previously approved SIP revisions that address the nonattainment area requirements for NSR and for implementation of RACT for the South Coast for the 2008 ozone NAAQS. See 83 FR 64026 (December 13, 2018) (NSR) and 82 FR 43850 (September 20, 2017) (RACT). SIP revisions for the South Coast addressing the penalty fee requirements under CAA sections 181(d)(4) and 185 are not yet due for the 2008 ozone NAAQS.

¹⁹⁹ Letter dated January 29, 2019, from Wayne Nastro, SCAQMD Executive Officer, to Richard Corey, CARB Executive Officer; and letter dated February 13, 2019, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region IX. Also see letter dated May 2, 2019, from Wayne Nastro, SCAQMD Executive Officer, to Richard Corey, CARB Executive Officer; and letter dated May 20, 2019, from Michael Benjamin, CARB, to Amy Zimpfer, EPA Region IX.

preamble. The EPA has made, and will continue to make, these materials available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory

action because SIP approvals are exempted under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: May 22, 2019.

Michael Stoker,

Regional Administrator, Region IX.

[FR Doc. 2019-12176 Filed 6-14-19; 8:45 am]

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