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# Rules and Regulations

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

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

## DEPARTMENT OF HOMELAND SECURITY

## 8 CFR Part 234

## U.S. Customs and Border Protection

## 19 CFR Part 122

**[Docket No. USCBP–2016–0015; CBP Decision No. 19–06]**

**RIN 1651–AB10**

## Flights To and From Cuba

**AGENCY:** U.S. Customs and Border Protection, DHS.

**ACTION:** Final rule.

**SUMMARY:** This rule adopts as final, without change, interim amendments to the U.S. Customs and Border Protection (CBP) regulations published in the **Federal Register** on March 21, 2016, that removed certain provisions regarding flights to and from Cuba that were either obsolete due to intervening regulatory changes or were duplicative of regulations applicable to all other similarly situated international flights.

**DATES:** This rule is effective on June 25, 2019.

**FOR FURTHER INFORMATION CONTACT:** Arthur A.E. Pitts, Sr., U.S. Customs and Border Protection, Office of Field Operations, by phone at (202) 344–2752 or by email at *Arthur.A.Pitts@cbp.dhs.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

On March 21, 2016, the Department of Homeland Security (DHS) published an interim final rule (IFR) in the **Federal Register** (81 FR 14948) amending CBP regulations to remove regulations previously codified at 19 CFR, part 122, subpart O. The removed regulations imposed certain restrictions and reporting requirements on flights to and from Cuba. The implementation of robust reporting requirements that generally apply to all international flights rendered much of subpart O redundant. Additionally, the Department of the Treasury's Office of Foreign Assets Control (OFAC) and the Department of Commerce's Bureau of Industry and Security (BIS) issued changes to the Cuban Assets Control Regulations (CACR) and the Export Administration Regulations (EAR) that rendered many sections of subpart O obsolete.[1]

Despite the removal of subpart O, flights to and from Cuba continue to be subject to the same entry and clearance requirements in 19 CFR part 122 as all other similarly situated international flights. Additionally, flights to and from Cuba continue to be subject to other legal requirements relating to travel and trade between the United States and Cuba including, but not limited to, the CACR and the EAR.

In the IFR, DHS also amended several provisions of title 8 CFR (8 CFR 234.2) and title 19 CFR (19 CFR 122.31 and 122.42) to bring these sections into conformity with the removal of 19 CFR part 122, subpart O.

### II. Discussion of Comments

*A. Overview*

Although the interim regulatory amendments were promulgated without prior public notice and comment procedures pursuant to the foreign affairs exemption in 5 U.S.C. 553(a)(1), the IFR provided for the submission of public comments that would be considered before adoption of the interim regulations as a final rule. The prescribed 30-day public comment period closed on April 20, 2016. DHS received submissions from 30 commenters.

The vast majority of commenters supported the removal of subpart O. Those commenters supported the removal of subpart O based on the expectation that it would benefit the U.S. airline industry and other U.S. businesses hoping to expand to Cuba, lower the cost of flights to and from Cuba by increasing flight options available to U.S. consumers, and potentially lead to future trade agreements and other economic cooperation between the United States and Cuba. Three of the commenters that supported the rule requested that DHS impose additional restrictions on international flights and individuals arriving in the United States. Two commenters opposed the IFR due to legal and policy concerns regarding Cuba. A summary of the comments and comment responses follow.

*B. Discussion*

*Comment:* One commenter expressed concern that the removal of subpart O would encourage the spread of communist beliefs and stated that DHS should take steps to continue to isolate Cuba. Another commenter stated that the removal of subpart O was inconsistent with federal laws that restrict trade with Cuba and with CBP's putative duty to prevent trade with Cuba. Specifically, it is the position of the commenter that section 6063 of title 22 of the U.S. Code prohibits CBP from removing subpart O until there is a transition government in place in Cuba.

*Response:* DHS disagrees that the removal of subpart O is inconsistent with U.S. law or CBP's obligations under the law. As noted above and explained in detail in the IFR, each section previously codified in subpart O is either redundant of other regulatory provisions or is obsolete due to intervening regulatory changes issued by OFAC and BIS pursuant to OFAC's and BIS's statutory authority to regulate travel and trade with Cuba. Additionally, none of the regulatory requirements previously codified in subpart O is mandated by statute. Rather, subpart O was promulgated pursuant to the Secretary of Homeland Security's broad authority to regulate all aircraft arriving to and departing from the United States. *See* 19 U.S.C. 1433, 1644, and 1644a. The elimination of subpart O, therefore, merely updates CBP's regulations to conform to OFAC's and BIS's regulations and does not conflict with the existing statutory or regulatory scheme restricting travel or trade with Cuba.

The removal of subpart O also does not conflict with title II of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, Public Law 104–114, sections 201–207, 110 Stat.

[1] Following the publication of the IFR, BIS and OFAC published additional changes to the CACR and the EAR in order to implement the National Security Presidential Memorandum on Strengthening the Policy of the United States Toward Cuba (June 16, 2017). *See* 82 FR 51983 (Nov. 9, 2017) and 82 FR 51998 (Nov. 9, 2017). These changes did not affect provisions related to former subpart O and do not require modification to the IFR.

785, 805–814, which includes the provisions codified at 22 U.S.C. 6063. Those provisions do not specifically address DHS's authority to regulate aircraft flying to or from Cuba. The President is authorized to suspend aspects of the economic embargo of Cuba only if certain conditions are met, including the determination that ''a transition government in Cuba is in power.'' 22 U.S.C. 6064(a). As explained above, however, the removal of the provisions in subpart O, which are either redundant or obsolete, merely conforms CBP's regulations to the BIS and OFAC requirements. It does not affect the existing embargo, and therefore does not require a determination that a transition government is in power in Cuba.

*Comment:* Two commenters expressed support for the removal of subpart O but requested that individuals arriving in the United States from any foreign place, including individuals arriving from Cuba, be subject to criminal background checks in order to enter the United States. One commenter requested that additional restrictions be placed on flights to and from any foreign place.

*Response:* The requirements applicable to foreign individuals seeking entry into the United States are beyond the scope of this rule. However, DHS notes that despite the removal of subpart O, all travelers arriving in the United States from Cuba must still report to a CBP officer and undergo a customs and immigration inspection, as required by various provisions in the United States Code and titles 8 and 19 and of the CFR. DHS and its component agencies also work closely with the Department of State and other agencies responsible for enforcing the sanctions regime against Cuba, including OFAC and BIS, to ensure that individuals on the Specially Designated National (SDN) list are prohibited entry into the United States.

In addition, despite the removal of subpart O, all aircraft arriving in the United States from Cuba are subject to the various reporting and inspection requirements of title 19 CFR.

*Comment:* One commenter requested that DHS amend section 122.153(c) of title 19 (19 CFR 122.153) to permit Key West International Airport to receive flights to and from Cuba.

*Response:* Section 122.153 of title 19 is within subpart O and, therefore, has been removed. However, it is not necessary to amend the list of airports authorized to accept flights to and from Cuba previously contained in 122.153(c) to add Key West International Airport, or any other airport, in order for that airport to receive flights to and from Cuba. With the removal of subpart O, any airport, including Key West International Airport, may request a new international flight to or from Cuba under the same procedures and requirements applicable to all other similarly situated airports and aircraft operators seeking to conduct international flights. In order to operate flights between the United States and Cuba, all airports and aircraft operators must comply with applicable regulatory requirements of DHS and its component agencies, such as CBP, the Transportation Security Administration (TSA), U.S. Immigration and Customs Enforcement (ICE) and the U.S. Coast Guard, as well as the regulatory requirements of OFAC, BIS, and the Department of Transportation's Federal Aviation Administration.

## III. Conclusions—Regulatory Amendments

After careful consideration of the comments received, DHS is adopting the interim regulations, as set forth in the IFR published in the **Federal Register** at 81 FR 14948 on March 21, 2016, as final without change.

## Statutory and Regulatory Requirements

### *A. Statutory Requirements*

The Administrative Procedure Act (APA) requirements in 5 U.S.C. 553 govern agency rulemaking procedures. Among other procedural requirements, the APA generally requires that a final rule have a 30-day delayed effective date. The APA provides a full exemption from the requirements of section 553 for rules involving the foreign affairs function of the United States. *See* 5 U.S.C. 553(a)(1). This final rule is excluded from the rulemaking provisions of 5 U.S.C. 553 as a foreign affairs function of the United States because it concerns international flights between the United States and Cuba, consistent with U.S. foreign policy goals. These amendments clarify and simplify the regulations regarding air travel between the United States and Cuba and are consistent with President Trump's continued efforts to ensure that engagement between the United States and Cuba advances the interests of the United States and the Cuban people, including the mutual interest in facilitating lawful travel and safe civil aviation.[2] *See* 82 FR 48875. Accordingly, this final rule is not subject to the 30-day delayed effective date requirement.

Additionally, because this rule is not subject to the requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

### *B. Executive Orders 12866 and 13771*

Executive Order 12866 (''Regulatory Planning and Review'') directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Rules involving the foreign affairs function of the United States are exempt from the requirements of Executive Order 12866. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs'') requires that whenever an agency promulgates a new regulation, it must identify at least two existing regulations to be repealed. It further directs that any new incremental costs associated with new regulations must be offset by the elimination of existing costs associated with two prior regulations. Pursuant to section 4(a), Executive Order 13771 does not apply to regulations issued with respect to a foreign affairs function of the United States.

As discussed above, DHS has concluded that clarifying and simplifying the regulations regarding restrictions on travel between the United States and Cuba is a foreign affairs function of the United States Government. Accordingly, this rule is exempt from the requirements of Executive Orders 12866 and 13771.

## Signing Authority

This final rule is being issued in accordance with 8 CFR 2.1 and 19 CFR 0.2(a). Accordingly, this final rule is signed by the Secretary of Homeland Security.

## List of Subjects

### *8 CFR Part 234*

Air carriers, Aircraft, Airports, Aliens, Cuba.

### *19 CFR Part 122*

Administrative practice and procedure, Air carriers, Aircraft, Airports, Alcohol and alcoholic beverages, Cigars and cigarettes, Cuba, Customs duties and inspection, Drug traffic control, Freight, Penalties, Reporting and recordkeeping requirements, Security measures.

## Amendments to Regulations

For the reasons set forth above, the IFR amending part 122 of the CBP regulations (19 CFR part 122), which

[2] National Security Presidential Memorandum on Strengthening the Policy of the United States Toward Cuba (June 16, 2017) § 2(d), (f).

was published in the **Federal Register** at 81 FR 14948 on March 21, 2016, is adopted as a final rule without change.

Dated: June 14, 2019.

**Kevin K. McAleenan,**

*Acting Secretary.*

[FR Doc. 2019–13431 Filed 6–24–19; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2018–0737; Product Identifier 2017–SW–096–AD; Amendment 39–19661; AD 2019–12–06]**

**RIN 2120–AA64**

## Airworthiness Directives; Leonardo S.p.A. Helicopters

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for Leonardo S.p.A. (type certificate previously held by Finmeccanica S.p.A., AgustaWestland S.p.A.) Model AW139 helicopters. This AD requires inspecting and altering the number 1 driveshaft (driveshaft). This AD was prompted by reports of scratches that were found on the driveshaft. The actions of this AD are intended to address an unsafe condition on these products.

**DATES:** This AD is effective July 30, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of July 30, 2019.

**ADDRESSES:** For service information identified in this final rule, contact Leonardo S.p.A. Helicopters, Matteo Ragazzi, Head of Airworthiness, Viale G. Agusta 520, 21017 C. Costa di Samarate (Va) Italy; telephone +39–0331–711756; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0737.

### Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0737; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (EASA) AD, any incorporated-by-reference service information, the economic evaluation, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** David Hatfield, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *david.hatfield@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

On August 27, 2018, at 83 FR 43561, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to Model AW139 helicopters, serial numbers 31499, 31504, 31507, 31509, 31512, 31518, 31519, 31524, 31529, 31533, 31535 through 31564, 31567, 31569, 31570, 31589, 41363, 41368 through 41370, 41372 through 41375, 41378, 41381, and 41384, with a tunnel assembly part number (P/N) 3G7130A13431 installed. The NPRM proposed to require repetitively inspecting the driveshaft tube P/N 3G6510A00832 for a scratch and indentation. If there is a scratch or indentation, the NPRM proposed to require, before further flight, repairing the driveshaft tube and performing a depth check of the repaired area. Depending on the repaired area depth, the NPRM proposed to require replacing the driveshaft tube and altering the rear exhaust module and tunnel assembly before further flight or performing an eddy current inspection of the tube for a crack. If there is a crack, the NPRM proposed to require replacing the driveshaft tube and altering the rear exhaust module and tunnel assembly before further flight. The NPRM also proposed to require altering the rear exhaust module and tunnel assembly, if not previously done as a result of the inspections, and re-identifying the tunnel assembly P/N after it is altered, which would be terminating action for the repetitive inspections. The proposed requirements were intended to prevent a crack in the driveshaft, failure of the tail rotor drive system, and subsequent loss of control of the helicopter.

The NPRM was prompted by AD No. 2017–0011, dated January 25, 2017, issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for certain serial-numbered Leonardo S.p.A. (formerly Finmeccanica S.p.A, AgustaWestland S.p.A.) Model AW139 helicopters. EASA advises of several helicopters found with scratches on the driveshaft P/N 3G6510A01132 and that an investigation determined only helicopters equipped with rear exhaust module assembly P/N 3G7810A00431 and tunnel assembly P/N 3G7130A13431 are affected. According to EASA, the scratches resulted from insufficient clearance between the driveshaft and the rear exhaust module and tunnel assemblies. EASA further advises that if not corrected, these scratches could lead to a crack in the driveshaft, failure of the tail rotor drive system, and subsequent reduced control of the helicopter.

### Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM.

### FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to our bilateral agreement with the European Union, EASA, has notified us of the unsafe condition described in its AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of the same type designs.

### Related Service Information Under 1 CFR Part 51

We reviewed Leonardo Helicopters Bollettino Tecnico No. 139–465, Revision A, dated January 25, 2017, which contains procedures for visual and eddy-current inspections of the driveshaft. This service information also contains procedures for modifying the exhaust module and tunnel assembly.

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 55 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD.

Labor costs are estimated at $85 per work-hour.

Inspecting, repairing, and eddy-current inspecting the driveshaft tube requires about 6 work-hours, and required parts cost is minimal, for a cost of $510 per helicopter and $28,050 for the U.S. fleet per inspection cycle. Altering the rear exhaust module and tunnel assembly requires about 20 work-hours, and required parts cost $1,500, for a cost of $3,200 per helicopter and $176,000 for the U.S. fleet.

According to Leonardo Helicopter's service information some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage by Leonardo Helicopters. Accordingly, we have 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.

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 helicopters identified in this rulemaking action.

## 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) 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.

We prepared an economic evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

## 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):

**2019–12–06 Leonardo S.p.A. (Type Certificate Previously Held by Finmeccanica S.p.A, AgustaWestland S.p.A.):** Amendment 39–19661; Docket No. FAA–2018–0737; Product Identifier 2017–SW–096–AD.

**(a) Applicability**

This AD applies to Model AW139 helicopters, serial numbers 31499, 31504, 31507, 31509, 31512, 31518, 31519, 31524, 31529, 31533, 31535 through 31564, 31567, 31569, 31570, 31589, 41363, 41368 through 41370, 41372 through 41375, 41378, 41381, and 41384, with a tunnel assembly part number (P/N) 3G7130A13431 installed, certificated in any category.

**(b) Unsafe Condition**

This AD defines the unsafe condition as a crack in a tail rotor driveshaft. This condition could result in failure of the tail rotor drive system and subsequent loss of control of the helicopter.

**(c) Effective Date**

This AD becomes effective July 30, 2019.

**(d) Compliance**

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

**(e) Required Actions**

(1) Within 30 hours time-in-service (TIS) and thereafter at intervals not to exceed 100 hours TIS, inspect the number 1 driveshaft tube shaft, P/N 3G6510A00832, for a scratch and indentation in the area depicted in Figure 1 of Leonardo Helicopters Bollettino Tecnico No. 139–465, Revision A, dated January 25, 2017 (BT 139–465). If there is a scratch or indentation, before further flight:

(i) Repair the tube shaft in accordance with the Compliance Instructions, Part I, paragraphs 7.1 through 7.3, of BT 139–465.

(ii) Measure the depth of the repaired areas as depicted in Figure 2 of BT 139–465.

(A) If the depth of the reworked area is 0.2 mm (0.079 inch) or less, eddy-current inspect the driveshaft for a crack as described in the Compliance Instructions, Annex A, of BT 139–465. If there is a crack, before further flight, replace the driveshaft, alter the rear exhaust module, and alter and re-identify the tunnel assembly in accordance with the Compliance Instructions, Part II, paragraphs 7 through 12, of BT 139–465.

(B) If the depth of the reworked area is more than 0.2 mm (0.079 inch), before further flight, replace the driveshaft, alter the rear exhaust module, and alter and re-identify the tunnel assembly in accordance with the Compliance Instructions, Part II, paragraphs 7 through 12, of BT 139–465.

(2) Within 300 hours TIS, unless already accomplished as required by paragraph (e)(1)(ii) of this AD, alter the rear exhaust module and alter and re-identify the tunnel assembly in accordance with the Compliance Instructions, Part II, paragraphs 7 through 12, of BT 139–465.

**(f) Special Flight Permits**

Special flight permits are prohibited.

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

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: David Hatfield, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

**(h) Additional Information**

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2017–0011, dated January 25, 2017. You may view the EASA AD on the internet at *http://www.regulations.gov* in Docket No. FAA–2018–0737.

**(i) Subject**

Joint Aircraft Service Component (JASC) Code: 6510 Tail Rotor Driveshaft.

**(j) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference 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) Leonardo Helicopters Bollettino Tecnico No. 139–465, Revision A, dated January 25, 2017.

(ii) [Reserved]

(3) For Leonardo S.p.A. Helicopters service information identified in this AD, contact Leonardo S.p.A. Helicopters, Matteo Ragazzi, Head of Airworthiness, Viale G. Agusta 520, 21017 C. Costa di Samarate (Va) Italy; telephone +39–0331–711756; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(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 Fort Worth, Texas, on June 13, 2019.

**James A. Grigg,**

*Acting Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2019–13247 Filed 6–24–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[TD 9859]**

**RIN 1545–BO88**

## Amount Determined Under Section 956 for Corporate United States Shareholders; Correction

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

**ACTION:** Final rule; correction.

**SUMMARY:** This document contains corrections to final regulations (TD 9859) that were published in the **Federal Register** on Thursday, May 23, 2019. The final regulations reduce the amount determined under section 956 of the Internal Revenue Code with respect to certain domestic corporations.

**DATES:** This correction is effective on July 22, 2019.

**FOR FURTHER INFORMATION CONTACT:** Rose E. Jenkins at (202) 317–6934 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

The final regulations (TD 9859) that are the subject of this correction are issued under section 956 of the Internal Revenue Code.

### Need for Correction

As published May 23, 2019 (84 FR 23716) the final regulations (TD 9859) contain errors that need to be corrected.

### Correction

In FR Doc. 2019–10749 appearing on page 23716 in the **Federal Register** of Thursday, May 23, 2019, the following correction is made:

**§ 1.956–1 [Corrected]**

■ **Par. 1.** On page 23717, in the second column, in Par. 2, instruction 4, § 1.956–1, correct the third entry in the table to read as follows:

| Old paragraphs | New paragraphs |
|---|---|
| * * * * * | |
| (b)(4)(iii)(i) and (ii) ..... | (b)(4)(iii)(A) and (B). |
| * * * * * | |

**Martin V. Franks,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. 2019–13489 Filed 6–24–19; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 100

**[Docket Number USCG–2019–0244]**

**RIN 165–AA08**

## Special Local Regulations; Marine Events in the Coast Guard Sector Long Island Sound Captain of the Port Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing two temporary special local regulations in Coast Guard Sector Long Island Sound Captain of the Port Zone. This temporary final rule is necessary to protect event participants from vessel traffic hazards associated with these events. One regulation prohibits the entry of vessels or persons into a ''no entry zone'' and requires vessels transiting through the ''no wake zone'' to travel at no wake speed or 6 knots, whichever is slower. The second regulation requires vessels transiting through the regulated area travel at no wake speed or 6 knots, whichever is slower, and maintain a minimum distance of 100 feet from the swimmers in the regulated area.

**DATES:** This rule is effective without actual notice from June 25, 2019 through 10 a.m. July 14, 2019. For the purposes of enforcement, actual notice will be used from 8:30 p.m. June 22, 2019 through June 25, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2019–0244 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, contact Chief Petty Officer Katherine Linnick, Prevention Department, Coast Guard Sector Long Island Sound, telephone (203) 468–4565, email *Katherine.E.Linnick@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
LIS Long Island Sound
NPRM Notice of Proposed Rulemaking
NAD 83 North American Datum 1983

### II. Background Information and Regulatory History

The Dolan Family Fourth Fireworks is a recurring marine event that takes place in Oyster Bay Harbor, NY. A permanent special local regulation is established and cited in 33 CFR 100.100 in Table at 7.2. This rule established a special local regulation on the navigable waters of the Oyster Bay, NY for vessel management in the vicinity of the fireworks display, including a ''No Entry Area'' within a 1000 foot radius of the fireworks launch platform in Oyster Bay, NY and a separate ''Slow/No Wake Area.'' This temporary final rule is necessary due to a new event date.

The Mystic Sharkfest Swim is a recurring marine event that occurred most recently in 2018. On July 6, 2018 the COTP Long Island Sound established a special local regulation when he issued a temporary rule entitled, ''Special Local Regulation; Mystic Sharkfest Swim, Mystic River; Mystic, CT'' which was published in a quarterly notice (3rd Quarter 2018) of expired temporary rules. This rule can be viewed by entering USCG–2018–0620 in the ''SEARCH'' box and clicking ''SEARCH.'' at *http://www.regulations.gov.* This rule established a temporary special local regulation on the navigable waters of the Mystic River off Mystic, CT for vessel management in the vicinity of the Mystic Sharkfest Swim with the same locations and restrictions on access as

this 2019 temporary special local regulation. The 2018 Mystic Sharkfest Swim occurred without incident. It also occurred in 2015 and 2016 without incident.

The Coast Guard is issuing this temporary final 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 NPRM with respect to this rule because doing so would be impracticable and contrary to the public interest. The Coast Guard was not provided enough notice regarding the change in date of the Dolan Family Fourth Fireworks and the occurrence of the Mystic Sharkfest Swim events by the event sponsors to allow for publishing a NPRM, taking public comments, and issuing a final rule before the events take place. The potential safety hazards associated with these events and the large numbers of spectators, participants, and vessels require immediate action to ensure the safety of the event and the public. It is impracticable to publish an NPRM because we must establish the special local regulation by June 22, 2019. Thus, waiting for a comment period to run is also contrary to the public interest as it would inhibit the Coast Guard's mission to keep the ports and waterways safe, protect the public from the hazards associated with these events, and minimize the impact on vessel traffic on the navigable waterway.

Under 5 U.S.C. 553(d)(3), and for the same reasons stated in the preceding paragraph, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because the special local regulation must be established by June 22, 2019 for the events.

## III. Legal Authority and Need for Rule

The Coast Guard is issuing this temporary rule under authority in 33 U.S.C. 1233. The COTP Long Island Sound has determined that potential hazards associated with these events will be a safety concerns if vessels get within 1000 feet of the fireworks launch platform, create a wake in the vicinity of the fireworks or swimmers, or get within 100 feet of the swimmers. The special local regulation established by this rule is necessary to provide for the safety of life on navigable waterways before, during, and after these scheduled events.

## IV. Discussion of the Rule

The Dolan Family Fourth Fireworks rule establishes a special local regulation on the navigable waters of Oyster Bay Harbor in Long Island Sound off Oyster Bay, NY in the vicinity of the fireworks launch on June 22, 2019 from 8:30 p.m. to 10:30 p.m. This special local regulation includes two measures to reduce the risks to waterway users and event participants during the fireworks display. The first measure prohibits entry of vessels and persons within a 1000 foot radius of the launch platform in approximate position 41°53′42.50″ N; 073°30′04.30″ W. (NAD 83). The second measure will restrict vessel speeds within the regulated area to a no wake speed, or 6 knots, whichever is slower during the event. Based on the hazards associated with launching fireworks on a navigable waterway where vessels transit, the COTP Long Island Sound has determined the fireworks event poses a significant risk to public safety. The duration of the special local regulation is intended to protect persons, vessels, and the marine environment.

The Mystic Sharkfest rule establishes a special local regulation on the navigable waters of Mystic River in the vicinity of Mystic, Connecticut, for the management of vessels in the vicinity of the Mystic Sharkfest Swim. The Mystic Sharkfest Swim is a 1,500 meter swim from Mystic Seaport, down the Mystic River, under the Bascule drawbridge to finish at the boat launch ramp at the north end of Seaport Marine. The Mystic Sharkfest Swim is scheduled to start at 8:00 a.m. on July 14, 2019.

This special local regulation includes two measures to reduce the risks to waterway users and event participants during the Mystic Sharkfest Swim. The first measure will restrict vessel speeds within the regulated area to a no wake speed, or 6 knots, whichever is slower from 8:00 a.m. to 10:00 a.m. on the day of the event. The second measure prohibits vessels from coming within 100 feet of swimmers participating in the event from 8:30 a.m. to 9:30 a.m. on the day of the event. Based on the hazards associated with persons swimming on a navigable waterway where vessels transit, the COTP Long Island Sound has determined the swim event poses a significant risk to public safety. The duration of the special local regulation is intended to protect persons, vessels, and the marine environment.

The Coast Guard will notify the public and local mariners of the special local regulation through appropriate means, which may include, but are not limited to, publication in the **Federal Register**, the Local Notice to Mariners, and Broadcast Notice to Mariners.

## V. Regulatory Analyses

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

This regulatory action determination is based on: (1) The enforcement of this regulation will be short in duration and each special local regulation will last only two hours; (2) persons or vessels desiring to enter the regulated area may do so with permission from the COTP LIS or a designated representative; (3) the regulated area is designed to limit impacts on vessel traffic, permitting vessels to navigate in other portions of the waterway; and (4) the Coast Guard will notify the public of the enforcement of this rule via appropriate means, such as via Local Notice to Mariners and Broadcast Notice to Mariners to increase public awareness of this special local regulation.

### *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 this regulated area 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 proposed rule or any policy or action of the Coast Guard.

*C. Collection of Information*

These rules 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 Orders 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 these rules will not result in such an expenditure, we do discuss the effects of these rules elsewhere in this preamble.

*F. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a two special local regulations lasting only 2 hours that will control vessel traffic in Oyster Bay, NY and and thus this rule is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Memorandum For Record for Categorically Excluded Actions that do not require a REC will be available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this 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.

**List of Subjects in 33 CFR Part 100**

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

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

## PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

■ 2. Add § 100.T01–0244 to read as follows:

**§ 100.T01–0244 Special Local Regulation; Dolan Family Fourth Fireworks, Oyster Bay Harbor, Oyster Bay, NY.**

(a) *Location.* The following areas are included with this special local regulation:

(1) ''No Entry Area'': All waters of the Oyster Bay Harbor in Long Island Sound off Oyster Bay, NY within a 1000 foot radius of the launch platform in approximate position 40°53′42.50″ N; 073°30′04.30″ W (NAD83).

(2) ''Slow/No Wake Area'': All waters of Oyster Bay Harbor in Long Island Sound off Oyster Bay, NY contained within the following area; beginning at a point on land in position at 40°53′12.43″ N, 073°31′13.05″ W near Moses Point; then east across Oyster Bay Harbor to a point on land in position at 40°53′15.12″ N, 073°30′38.45″ W; then north along the shoreline to a point on land in position at 40°53′34.43″ N, 073°30′33.42″ W near Cove Point; then east along the shoreline to a point on land in position at 40°53′41.67″ N, 073°29′40.74″ W near Cooper Bluff; then south along the shoreline to a point on land in position 40°53′05.09″ N, 073°29′23.32″ W near Eel Creek; then east across Cold Spring Harbor to a point on land in position 40°53′06.69″ N, 073°28′19.9″ W; then north along the shoreline to a point on land in position 40°55′24.09″ N, 073°29′49.09″ W near Whitewood Point; then west across Oyster Bay to a point on land in position 40°55′5.29″ N, 073°31′19.47″ W near Rocky Point; then south along the shoreline to a point on land in position 40°54′04.11″ N, 073°30′29.18″ W near Plum Point; then northwest along the shoreline to a point on land in position 40°54′09.06″ N, 073°30′45.71″ W; then southwest along the shoreline to a point on land in position 40°54′03.2″ N, 073°31′01.29″ W; and then south along the shoreline back to point of origin (NAD 83). All positions are approximate.

(b) *Enforcement period.* This rule will be enforced from 08:30 p.m. to 10:30 p.m. on June 22, 2019.

(c) *Definitions.* The following definitions apply to this section: A ''designated representative'' is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port (COTP) Sector Long Island Sound (LIS), to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

''Official patrol vessels'' may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(d) *Special local regulations.* (1) In accordance with the general regulations found in section 33 CFR 100.100, Vessels may not transit the ''No Entry Area'' without the approval of the COTP or a designated representative.

(2) Vessel operators desiring to enter or operate within the ''No Entry Area'' shall contact the COTP or the designated representative at 203–468–4401 (Sector LIS command center) or via VHF channel 16.

(3) Any vessel given permission to deviate from these regulations and transit the ''No Entry Area'' must comply with all directions given to them by the COTP or a designated representative and must operate at a no wake speed, or 6 knots, whichever is slower.

(4) Vessels may only transit the ''Slow/No Wake area'' at a no wake speed or 6 knots, whichever is slower.

(5) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

■ 3. Add § 100.T01–0245 to read as follows:

**§ 100.T01–0245 Special Local Regulation; Mystic Sharkfest Swim, Mystic River, Mystic, CT.**

(a) *Location.* The following areas are included with this special local regulation:

All navigable waters of Mystic River off Mystic, CT contained within the following area; beginning at a point on land in position at 41°21′41″ N, 071°58′01″ W; then south-west across Mystic River to a point on land in position at 41°21′36″ N, 071°58′05″ W near Pearl Street then south-east along the shoreline to a point on land in position at 41°21′31″ N, 071°58′02″ W near Park Place; then south-west along the shoreline to a point on land in position at 41°21′27″ N, 071°58′07″ W near Gravel Street; then south along the shoreline to a point on land in position 41°21′10″ N, 071°58′14″ W; then east across Mystic River to a point on land in position 41°21′09″ N, 071°58′11″ W; then north along the shoreline to a point on land in position 41°21′21″ N, 071°58′02″ W, then east along the shoreline to a point on land in position 41°21′25″ N, 071°57′53″ W near Holmes Street, then north along the shoreline to a point on land in position 41°21′38″ N, 071°57′53″ W near the Mystic Seaport Museum and then northwest along the shoreline back to point of origin (NAD 83).

(a) *Enforcement period.* This section will be enforced from 8 a.m. to 10 a.m. on July 14, 2019.

*Definitions.* The following definitions apply to this section:

A ''designated representative'' is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port (COTP) Sector Long Island Sound (LIS), to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

''Official patrol vessels'' may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(d) *Special local regulations.* (1) In accordance with the general regulations found in section 33 CFR 100.35, all non-event vessels transiting through the regulated area during the enforcement period shall travel at no wake speed or 6 knots, whichever is slower. Recreational vessels transiting in the regulated area shall not block or impede the transit of event participants, event safety vessels, or official patrol vessels and shall follow the directions given by event safety craft during the event. Commercial vessels will have right-of-way over event participants and event safety craft.

(2) All persons transiting through the regulated area shall maintain a minimum distance of 100 feet from the swimmers in the regulated area.

(3) Vessel operators desiring to deviate from these regulations should contact the COTP or a designated representative at (203) 468–4401 (Sector Long Island Sound command center) or VHF channel 16 to obtain permission to do so.

(4) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

Dated: June 5, 2019.

**K.B. Reed,**

*Captain, U.S. Coast Guard, Captain of the Port Long Island Sound.*

[FR Doc. 2019–13501 Filed 6–24–19; 8:45 am]

BILLING CODE 9110–04–P

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

**[Docket No. USCG–2019–0366]**

**RIN 1625–AA09**

## Drawbridge Operation Regulation; Emergency Bridge Replacement, Chicago River, Chicago, IL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily modifying the operating schedule that governs the Chicago Avenue Bridge, mile 2.40, over the North Branch of the Chicago River. This action is necessary because The City of Chicago applied for and was awarded an emergency bridge replacement permit to temporarily replace the Chicago Avenue double leaf bascule bridge with a temporary fixed structure.

**DATES:** June 25, 2019 through 11:59 p.m. on November 13, 2023.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov.* Type USCG–2019–0366 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216–902–6085, email *Lee.D.Soule@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FHWA Federal Highway Administration
FR Federal Register
IGLD85 International Great Lakes Datum of 1985
LWD Low Water Datum based on IGLD85
NEPA National Environmental Policy Act
NPRM Notice of proposed rulemaking
SNPRM Supplemental notice of proposed rulemaking

Pub. L. Public Law
§ Section
U.S.C. United States Code

## II. Background Information and Regulatory History

The Coast Guard is issuing this temporary final 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), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because on July 16, 2018, we published PUBLIC NOTICE 09–02–18 and mailed out an availability of public notice addressed to 783 adjacent address and interested parties as part of the bridge permit public notice and comment process. The comment process was open until October 1, 2018. We did not receive any comments on this rule.

We are issuing this rule and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective in less than 30 days after publication in the **Federal Register**. PUBLIC NOTICE 09–02–18 was made available for public comment and no comments were received and the City of Chicago has already installed the temporary emergency bridge.

## III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499.

The Chicago Avenue Bridge, mile 2.40, over the North Branch of the Chicago River, provides a horizontal clearance of 148 feet and a vertical clearance of 18 feet above LWD. The original bridge when opened provided an unlimited clearance in the open position and the same clearances in the closed position available with the temporary fixed bridge. The City of Chicago applied for and was awarded an emergency bridge replacement permit number 3–18–9 to temporarily replace the Chicago Avenue double leaf bascule bridge with a temporary fixed structure. In accordance with condition 8 of the permit the City of Chicago must replace the fixed structure with a permanent movable structure no later than November 14, 2023.

The North Branch of the Chicago River is used by large commercial tug and barge traffic, passenger vessels, powered and unpowered recreational vessels. Currently all regular users of the waterway can pass under the bridge without an opening.

## IV. Discussion of the Rule

This rule is to temporally relieve the City of Chicago from the operational requirements of opening the Chicago Avenue Bridge until the permanent bridge can be built.

## 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 protesters.

### *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. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the ability that vessels can still transit the bridge without openings and that the public was engaged in this decision through the Coast Guard Bridge Permit process and public notice procedures.

### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980 (RFA), 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 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.

Through the public notice sent out by mail, posted in the local post office, and on the internet, the Coast Guard did not receive any comments that this temporary regulation would have a significant impact.

While some owners or operators of vessels intending to transit the bridge 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**, above.

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 calls 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 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.

*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 Management Directive 023–01 and Commandant Instruction M16475.lD, 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 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 rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2–1, paragraph (32)(e), of the Instruction. A Record of Environmental Consideration and a Memorandum for the Record are not required for this rule. Federal Highway Administration (FHWA) had been identified as the lead federal agency for purposes of the National Environmental Policy Act (NEPA). FHWA prepared a NEPA document for the project as proposed for the final bridge permit. FHWA classified the project as a Categorical Exclusion.

*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 117**

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 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. In § 117.391 effective from date of publication, through 11:59 p.m. on November 13, 2023 *temporarily add paragraph (d) to read as follows:*

**§ 117.391 Chicago River**

* * * * *

(d) The draw of the Chicago Avenue Bridge, mile 2.40, over the North Branch of the Chicago River, need not open for the passage of vessels.

Dated: June 13, 2019.

**D.L. Cottrell,**

*Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.*

[FR Doc. 2019–13495 Filed 6–24–19; 8:45 am]

BILLING CODE 9110–04–P

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket Number USCG–2019–0212]**

**RIN 1625–AA00**

## Safety Zone; Tall Ships Challenge Great Lakes 2019, Buffalo, NY, Cleveland, OH, Bay City, MI, Green Bay, WI, Sturgeon Bay, WI, Kenosha, WI and Erie, PA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is creating safety zones around each tall ship visiting the Great Lakes during the Tall Ships Challenge 2019 race series. These safety zones will provide for the regulation of vessel traffic in the vicinity of each tall ship in the navigable waters of the United States. The Coast Guard is taking this action to safeguard participants and spectators from the hazards associated with the limited maneuverability of these tall ships and to ensure public safety during tall ships events.

**DATES:** This rule is effective from 12:01 a.m. on June 28, 2019, through 12:01 a.m. on September 2, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0212 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 Jason Radcliffe, 9th District Waterways Management, U.S. Coast Guard; telephone 216–902–6060, email *jason.a.radcliffe2@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

During the Tall Ships Challenge Great Lakes 2019, tall ships will be participating in maritime parades, training cruises, races, and mooring in the harbors of Buffalo, NY, Cleveland, OH, Bay City, MI, Green Bay, WI, Sturgeon Bay, WI, Kenosha, WI and Erie, PA. Tall ships are large, traditionally-rigged sailing vessels. The event will consist of festivals at each port of call, sail training cruises, tall ship parades, and races between the ports. More information regarding the Tall Ships Challenge 2019 and the participating vessels can be found at: *https://tallshipsnetwork.com/series/tall-ships-challenge-great-lakes-2019/.*

In response, on 13 May 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Tall Ships Challenge Great Lakes 2019 [84 FR 20825]. There we stated why we issued the NPRM, and invited comments on our proposed regulatory action. During the comment period that ended 12 June 2019, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is necessary to respond to the safety hazards associated with the imminent arrival of the Tall Ships fleet.

At 12:01 a.m. June 28, 2019, a safety zone will be established around each tall ship participating in this event. The safety zone around each ship will remain in effect as the tall ships travel throughout the Great Lakes. The safety zones will terminate at 12:01 a.m. on September 2, 2019.

These safety zones are necessary to protect the tall ships from potential harm and to protect the public from the hazards associated with the limited maneuverability of tall sailing ships. When operating under sail, they require a substantial crew to manually turn the rudder and adjust the sails, therefore

they cannot react as quickly as modern ships. Additionally, during parades of sail, the tall ships will be following a set course through a crowded harbor, and it is imperative that spectator craft stay clear since maneuvering the tall ships to avoid large crowds of spectator craft would not be possible. Due to the high profile nature and extensive publicity associated with this event, each Captain of the Port (COTP) expects a large number of spectators in confined areas adjacent to the tall ships. The combination of large numbers of recreational boaters, congested waterways, boaters crossing commercially transited waterways and low maneuverability of the tall ships could easily result in serious injuries or fatalities. Therefore, the Coast Guard will enforce a safety zone around each ship to ensure the safety of both participants and spectators in these areas. The Coast Guard is making this rulemaking under authority in 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.

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

As noted above, we received no comments on our NPRM published 13 May 2019. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM. The Coast Guard will establish safety zones from 12:01 a.m. on June 28, 2019 until 12:01 a.m. on September 2, 2019. The safety zones will cover all navigable waters within 100 yards of a tall ship in the Great Lakes. The duration of the zone is intended to ensure the safety of vessels and these navigable waters during the 2019 Tall Ships Challenge. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. If the tall ships are operating in a confined area such as a small harbor and there is not adequate room for vessels to stay out of the safety zone because of a lack of navigable water, then vessels will be permitted to operate within the safety zone and shall travel at the minimum speed necessary to maintain a safe course. The navigation rules shall apply at all times within the safety zone. The regulatory text appears at the end of this document.

## IV. 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 would be able to safely transit around this safety zone or through it at slow speed in congested areas. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow 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 received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.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 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 rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

### *E. Unfunded Mandates Reform Act*

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

we do discuss the effects of this rule elsewhere in this preamble.

*F. Environment*

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

**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:

■ 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.

■ 2. Add § 165.T09–0073 to read as follows:

**§ 165.T09–0073 Safety Zone; Tall Ships Challenge Great Lakes 2019; Buffalo, NY, Cleveland, OH, Bay City, MI, Green Bay, WI, Sturgeon Bay, WI, Kenosha, WI and Erie, PA.**

(a) *Definitions.* The following definitions apply to this section:

(1) Navigation rules means the Navigation Rules, International and Inland (See, 1972 COLREGS and 33 U.S.C. 2001 *et seq.*).

(2) Official patrol means those persons designated by Captain of the Port Buffalo, Detroit, Sault Ste. Marie, Duluth and Lake Michigan to monitor a tall ship safety zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zone, and take other actions authorized by the cognizant Captain of the Port.

(3) Public vessel means vessels owned, chartered, or operated by the United States or by a State or political subdivision thereof.

(4) Tall ship means any sailing vessel participating in the Tall Ships Challenge 2019 in the Great Lakes.

(b) *Location.* The following areas are safety zones: All navigable waters of the United States located in the Ninth Coast Guard District within a 100 yard radius of any tall ship.

(c) *Regulations.* (1) No person or vessel is allowed within the safety zone unless authorized by the cognizant Captain of the Port, their designated representative, or the on-scene official patrol.

(2) Persons or vessels operating within a confined harbor or channel, where there is not sufficient navigable water outside of the safety zone to safely maneuver are allowed to operate within the safety zone and shall travel at the minimum speed necessary to maintain a safe course. Vessels operating within the safety zone shall not come within 25 yards of a tall ship unless authorized by the cognizant Captain of the Port, their designated representative, or the on-scene official patrol.

(3) When a tall ship approaches any vessel that is moored or anchored, the stationary vessel must stay moored or anchored while it remains within the tall ship's safety zone unless ordered by or given permission from the cognizant Captain of the Port, their designated representative, or the on-scene official patrol to do otherwise.

(d) *Effective period.* This rule is effective from 12:01 a.m. on Wednesday, June 28, 2019 through 12:01 a.m. on Monday September 2, 2019.

(e) *Navigation Rules.* The Navigation Rules shall apply at all times within a tall ships safety zone.

Dated: June 20, 2019.

**D.L. Cottrell,**

*Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.*

[FR Doc. 2019–13475 Filed 6–24–19; 8:45 am]

**BILLING CODE 9110–04–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 74

**[MB Docket No. 18–119, FCC 19–40]**

### FM Translator Interference; Correction

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date; correction.

**SUMMARY:** The Federal Communications Commission (Commission) is correcting the effective date of rule amendments that appeared in the **Federal Register** on June 14, 2019. The document incorrectly stated the effective date for three of the amended rules as being 30 days from the date of publication in the **Federal Register**. The Commission ordered these amended rules to be effective 60 days from the date of publication in the **Federal Register**.

**DATES:** The effective date for the final rule published June 14, 2019, at 84 FR 27734, is corrected to August 13, 2019, except for the amendments to §§ 74.1203(a)(3) and 74.1204(f), which will become effective after the Commission publishes a document in the **Federal Register** announcing such approval and the relevant effective date.

**FOR FURTHER INFORMATION CONTACT:** Christine Goepp, Attorney Advisor, Media Bureau, Audio Division, (202) 418–7834; James Bradshaw, Senior Deputy Chief, Media Bureau, Audio Division, (202) 418–2739; Lisa Scanlan, Deputy Division Chief, Media Bureau, Audio Division, (202) 418–2704. Direct press inquiries to Janice Wise at (202) 418–8165. For additional information concerning the PRA information collection requirements contained in this document, contact Cathy Williams, Federal Communications Commission, at (202) 418–2918, or via email *Cathy.Williams@fcc.gov*.

**SUPPLEMENTARY INFORMATION:** The Federal Communications Commission (Commission) is correcting the effective date of rule amendments that appeared in the **Federal Register** on June 14, 2019. The document incorrectly stated the effective date for three of the amended rules, 47 CFR 74.1201(k), 74.1203(b), and 74.1233(a)(1), as being 30 days from the date of publication in the **Federal Register**. The Commission ordered these amended rules to be effective 60 days from the date of publication in the **Federal Register**. *Amendment of Part 74 of the Commission's Rules Regarding FM Translator Interference,* Report and Order, FCC 19–40, at para. 56 (rel. May 9, 2019).

The amendments to §§ 74.1203(a)(3) and 74.1204(f), which contain new or modified information collection requirements that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA), will become effective after the Commission publishes a document in the **Federal Register** announcing such approval and the relevant effective date. The Federal Communications Commission will publish a separate document in the **Federal Register** announcing the effective date of these amendments.

**Correction**

In the **Federal Register** of June 14, 2019, in FR Doc. 2019–12127, on page 27734, in the first and second columns, the **DATES** caption was incorrect. The **DATES** caption in this document is the correct effective date for the June 14, 2019, rule.

Federal Communications Commission.

**Katura Jackson,**

*Federal Register Liaison Officer.*

[FR Doc. 2019–13271 Filed 6–24–19; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 14

**[Docket No. FWS–HQ–LE–2019–0041; FF09L00200–FX–LE18110900000]**

**RIN 1018–BE35**

## Importation, Exportation, and Transportation of Wildlife, Shellfish, and Fishery Products; Importation and Exportation of Green Sea Urchins

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

**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) is amending our regulations regarding the importation and exportation of green sea urchins. We are issuing this final rule pursuant to the Agriculture Improvement Act of 2018, which includes a provision that directs the Director of the Service to revise our regulations pertaining to import/export licenses to exempt the exportation of green sea urchins under certain circumstances.

**DATES:** This action is effective June 25, 2019.

**ADDRESSES:** This final rule is available on the internet at *http://www.regulations.gov* in Docket No. FWS–HQ–LE–2019–0041.

**FOR FURTHER INFORMATION CONTACT:** Dan Coil, Special Agent in Charge, Branch of Investigations, U.S. Fish and Wildlife Service, Office of Law Enforcement, (703) 358–1949.

**SUPPLEMENTARY INFORMATION:**

### Background

On December 20, 2018, Congress passed the Agriculture Improvement Act of 2018, P.L. 115–334, 132 Stat. 4490. Section 12617 of the Act, ''Exemption of exportation of certain echinoderms from permission and licensing requirements,'' requires the Service to amend its regulations in title 50 of the Code of Federal Regulations at 50 CFR 14.92 to add an exemption for green sea urchins. In particular, Congress directed the Service to add an exemption for ''members of the species *Strongylocentrotus droebachiensis* (commonly known as the ''green sea urchin'')'' and any products of that species that are harvested in U.S. waters or imported for processing pursuant to an import license, and then exported for human or animal consumption, and that otherwise do not require a permit. See section 12617(c) of the Agriculture Improvement Act of 2018, Public Law 115–334, 132 Stat. 4490 (2018).

Section 12617 of the Agriculture Improvement Act of 2018 also prohibits application of the regulatory exemptions to persons who have been convicted of certain Federal wildlife laws within the last 5 years. (Sec. 12617(b)(2)). In addition, the regulatory exemptions will not apply in States if the State agencies that regulate or oversee the fisheries where green sea urchins are harvested have not submitted certain conservation and management data to the Interstate Fisheries Management Program Policy Board of the applicable Marine Fisheries Commission. A State may also be excluded if the applicable Marine Fisheries Commission determines that the information provided fails to prove that the State is engaged in ''conservation and management'' of the green sea urchin. (Sec. 12617(d)).

### This Rule

The current regulations in 50 CFR part 14 provide requirements for importation, exportation, and transportation of wildlife. The regulations at 50 CFR 14.92 list four exemptions to the import/export license requirement, including an exemption for certain shellfish and nonliving fishery products that are imported or exported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes.

Per direction of the Agriculture Improvement Act of 2018, we now amend the regulations at 50 CFR 14.92. The rule language at the end of this document precisely tracks the language of the Agriculture Improvement Act of 2018, with only minor formatting modifications appropriate for inclusion as regulatory language.

Accordingly, this final rule adds a fifth exemption to 50 CFR 14.92 for certain green sea urchins *(Strongylocentrotus droebachiensis),* including any products of that species, that are taken in waters under the jurisdiction of the United States, or are imported into the United States for processing and are exported for purposes of human or animal consumption. This final rule also incorporates the two statutory exceptions to the new exemption from the import/export license requirement. First, § 14.92(a)(5)(ii) provides that the exemption does not apply to any person who has been convicted of one or more violations of a Federal law relating to the importation, transportation, or exportation of wildlife during the previous 5 years. Second, § 14.92(a)(5)(iii) provides that the exemption does not apply in a State that fails to transmit data as required by section 12617(d) of the Agriculture Improvement Act of 2018, or if the applicable Marine Fisheries Commission determines that the data transmitted fails to prove that the State is engaged in conservation and management of the green sea urchin.

### Effective Date

This final rule is effective upon publication in the **Federal Register**. Section 12617 of subtitle F, General Provisions, of Public Law 115–334, directs the Director of the U.S. Fish and Wildlife Service to issue, within 90 days of enactment of the law, this final rule.

### Required Determinations

This rulemaking implements section 12617 of subtitle F of Public Law 115–334. Issuance of this rule is a nondiscretionary act for the U.S. Fish and Wildlife Service. Therefore, the promulgation of this rule is not subject to any other provision of statute or regulation that applies to the issuance of Federal rules. Accordingly, in issuing this rule, the Service has not made and is not required to make determinations otherwise required by statute, regulation, or Executive Order for the promulgation of Federal rules.

### List of Subjects in 50 CFR Part 14

Animal welfare, Exports, Fish, Imports, Labeling, Reporting and

recordkeeping requirements, Transportation, Wildlife.

**Regulation Promulgation**

For the reasons described above, we hereby amend part 14, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below.

## PART 14—IMPORTATION, EXPORTATION AND TRANSPORTATION OF WILDLIFE

■ 1. The authority citation for part 14 is revised to read as follows:

**Authority:** 16 U.S.C. 668, 704, 712, 1382, 1538(d)–(f), 1540(f), 3371–3378, 4223–4244, and 4901–4916; 18 U.S.C. 42; 31 U.S.C. 9701; Pub. L. 115–334, 132 Stat. 4490.

■ 2. Amend § 14.92 by adding paragraph (a)(5) to read as follows:

**§ 14.92 What are the exemptions to the import/export license requirement?**

(a) * * *

(5)(i) Except as provided in paragraphs (a)(5)(ii) and (iii) of this section, green sea urchins, *Strongylocentrotus droebachiensis,* including any products of that species, that:

(A) Do not require a permit under part 16, 17, or 23 of this subchapter;

(B) Are taken in waters under the jurisdiction of the United States or are imported into the United States for processing pursuant to the licensing requirements of § 14.91; and

(C) Are exported for purposes of human or animal consumption.

(ii) The exemption in paragraph (a)(5)(i) of this section does not apply to any person who has been convicted of one or more violations of a Federal law relating to the importation, transportation, or exportation of wildlife during the previous 5 years.

(iii) The exemption in paragraph (a)(5)(i) of this section does not apply in any State that does not annually provide ''conservation and management'' data, as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802), to the applicable Marine Fisheries Commission, or, if the State does provide the ''conservation and management'' data, and the applicable Marine Fisheries Commission determines, in consultation with the primary research agency of such Commission, after notice and an opportunity to comment, that the data fails to prove that the State agency or official is engaged in conservation and management of the green sea urchin.

* * * * *

Dated: June 18, 2019.

**Ryan Hambleton,**

*Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2019–13492 Filed 6–24–19; 8:45 am]

BILLING CODE 4333–15–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 635

**[Docket No. 150413357–5999–02]**

**RIN 0648–XT003**

## Atlantic Highly Migratory Species; Commercial Aggregated Large Coastal Shark and Hammerhead Shark Management Group Retention Limit Adjustment

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

**ACTION:** Temporary rule; inseason retention limit adjustment.

**SUMMARY:** NMFS is adjusting the commercial aggregated large coastal shark (LCS) and hammerhead shark management group retention limit for directed shark limited access permit holders in the Atlantic region from 3 LCS other than sandbar sharks per vessel per trip to 36 LCS other than sandbar sharks per vessel per trip. This action is based on consideration of the regulatory determination criteria regarding inseason adjustments. The retention limit will remain at 36 LCS other than sandbar sharks per vessel per trip in the Atlantic region through the rest of the 2019 fishing season or until NMFS announces via a notice in the **Federal Register** another adjustment to the retention limit or a fishery closure. This retention limit adjustment affects anyone with a directed shark limited access permit fishing for LCS in the Atlantic region.

**DATES:** This retention limit adjustment is effective on June 25, 2019, through December 31, 2019, or until NMFS announces via a notice in the **Federal Register** another adjustment to the retention limit or a fishery closure, if warranted.

**FOR FURTHER INFORMATION CONTACT:** Lauren Latchford, Guý DuBeck, or Karyl Brewster-Geisz 301–427–8503; fax 301–713–1917.

**SUPPLEMENTARY INFORMATION:** Atlantic shark fisheries are managed under the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and implementing regulations (50 CFR part 635) issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Atlantic shark fisheries have separate regional (Gulf of Mexico and Atlantic) quotas for all management groups except those for blue shark, porbeagle shark, pelagic sharks (other than porbeagle or blue sharks), and the shark research fishery for LCS and sandbar sharks. The boundary between the Gulf of Mexico region and the Atlantic region is defined at § 635.27(b)(1) as a line beginning on the East Coast of Florida at the mainland at 25°20.4′ N. lat. proceeding due east. Any water and land to the north and east of that boundary is considered, for the purposes of setting and monitoring quotas, to be within the Atlantic region. This inseason action only affects the aggregated LCS and hammerhead shark management groups in the Atlantic region.

Under § 635.24(a)(8), NMFS may adjust the commercial retention limits in the shark fisheries during the fishing season. Before making any adjustment, NMFS must consider specified regulatory criteria (see § 635.24(a)(8)(i) through (vi)). After considering these criteria as discussed below, NMFS has concluded that increasing the retention limit of the Atlantic aggregated LCS and hammerhead management groups for directed shark limited access permit holders in the Atlantic region will allow use of available aggregated LCS and hammerhead shark management group quotas and will provide fishermen throughout the region equitable fishing opportunities for the rest of the year. Therefore, NMFS is increasing the commercial Atlantic aggregated LCS and hammerhead shark retention limit in the Atlantic region from 3 to 36 LCS other than sandbar shark per vessel per trip.

NMFS considered the inseason retention limit adjustment criteria listed at § 635.24(a)(8)(i) through (vi), which includes:

- The amount of remaining shark quota in the relevant area, region, or sub-region to date, based on dealer reports.

Based on dealer reports through June 14, 2019, approximately 12 percent, or 19.7 metric tons (mt) dressed weight (dw) (43,409 lb dw) of the 168.9 mt dw shark quota for aggregated LCS and approximately 31 percent, or 8.4 mt dw (18,465 lb dw) of the 27.1 mt dw shark quota for the hammerhead management groups have been harvested in the Atlantic region. This means that

approximately 88 percent of the aggregated LCS quota, and approximately 69 percent of the hammerhead shark quota remains available. NMFS took action previously this year to reduce retention rates after considering the relevant inseason adjustment criteria, particularly the need for all regions to have an equitable opportunity to utilize the quota. Given the geographic distribution of the sharks at this time of year (*i.e.,* they are heading north before moving south again later in the year), the retention limit is being adjusted upwards to ensure that fishermen in the Atlantic region have an opportunity to fully utilize the quotas in the region throughout the remainder of the year.

• The catch rates of the relevant shark species/complexes in the region or sub-region, to date, based on dealer reports.

Based on the current commercial retention limit and average catch rate of landings data from dealer reports, the amount of aggregated LCS and hammerhead shark quota available is high. Using current catch rates, projections indicate that landings would not reach 80 percent of the quota before the end of the 2019 fishing season (December 31, 2019). A higher retention limit will better promote fishing opportunities and utilization of available quota in the Atlantic region.

• Estimated date of fishery closure based on when the landings are projected to reach 80 percent of the quota given the realized catch rates.

Once the landings reach 80 percent of either the aggregated LCS or hammerhead shark quotas, NMFS would, as required by the regulations at § 635.28(b)(3), close the aggregated LCS and hammerhead shark management groups since they are ''linked quotas.'' Current catch rates would likely result in the fisheries remaining open for the remainder of the year, but with the quotas being underutilized in the Atlantic region. The higher retention limit should help make it possible to more fully utilize the quota in the Atlantic region.

• Effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments.

Increasing the retention limit on the aggregated LCS and hammerhead management groups in the Atlantic region from 3 to 36 LCS other than sandbar sharks per vessel per trip would allow for fishing opportunities later in the year, consistent with the FMP's objective to ensure equitable fishing opportunities throughout the region.

• Variations in seasonal distribution, abundance, or migratory patterns of the relevant shark species based on scientific and fishery-based knowledge.

The directed shark fisheries in the Atlantic region are composed of a mix of species, with a high abundance of aggregated LCS caught in conjunction with hammerhead sharks. Migratory patterns of many LCS in the Atlantic region indicate that sharks move further north in the summer and then return south in the fall. Increasing the retention limit in the Atlantic region at this time provides fishing opportunities for fishermen further north (*i.e.* Mid-Atlantic and New England) as the sharks are likely going to be in the northern areas of the region for only a short period of time before migrating south again. As a result, by increasing the harvest and landings on a per-trip basis, fishermen throughout the Atlantic region will likely experience equitable fishing opportunities.

• Effects of catch rates in one part of a region or sub-region precluding vessels in another part of that region or sub-region from having a reasonable opportunity to harvest a portion of the relevant quota.

NMFS has previously provided notice to the regulated community (83 FR 60777; November 27, 2018, and 84 FR 12524; April 2, 2019) that a goal of this year's fishery is to ensure fishing opportunities throughout the fishing season and the Atlantic region. While dealer reports indicate that, under current catch rates, the aggregated LCS and hammerhead shark management groups in the Atlantic region would remain open for the remainder of the year, the catch rates also indicate that the quotas would likely not be fully harvested under the current retention limit. If the harvest of these species is increased through an increased retention limit, and absent any unforeseen circumstances or changes to expected catch rates, NMFS estimates that the fishery is likely to remain open for the remainder of the year and fishermen throughout the Atlantic region would have a reasonable opportunity to harvest a portion of the quota.

On November 27, 2018 (83 FR 60777), NMFS announced in a final rule that the aggregated LCS and hammerhead shark fisheries management groups for the Atlantic region would open on January 1 with a quota of 168.9 mt dw (372,552 lb dw) and 27.1 mt dw (59,736 lb dw), respectively. In the final rule, after considering public comment on the proposed rule (83 FR 45866, September 11, 2018), NMFS explained that if it appeared that the quota is being harvested too quickly, potentially precluding fishing opportunities throughout the entire region (*e.g.,* if approximately 20 percent of the quota is caught at the beginning of the year), NMFS would consider reducing the commercial retention limit to 3 or fewer LCS other than sandbar sharks and later consider increasing the retention limit, perhaps to 36 LCS other than sandbar sharks per vessel per trip, around July 15, 2019, consistent with the applicable regulatory adjustment criteria. Dealer reports through March 22, 2019, indicated that landings had reached 24 percent of the hammerhead shark quota. NMFS then reduced the commercial Atlantic aggregated LCS and hammerhead shark retention limit from 25 to 3 LCS other than sandbar sharks per vessel per trip on April 1, 2019 (84 FR 12524; April 2, 2019) after considering the inseason retention limit adjustment criteria listed in § 635.24(a)(8). Based on dealer reports through june 14, 2019, approximately 12 percent and 31 percent of the aggregated LCS and hammerhead shark quotas have been harvested, respectively. With this action, NMFS is increasing the retention limit for the commercial aggregated LCS and hammerhead shark management groups in the Atlantic region for directed shark limited access permit holders from 3 LCS other than sandbar sharks per vessel per trip to 36 LCS other than sandbar sharks per vessel per trip. NMFS is taking this action earlier than originally anticipated (and earlier than last year's similar action) given that relatively little of the quotas have been harvested so far this year and given updated information about aggregated LCS and hammerhead shark landings last year. Last year, the retention limit was increased to 36 LCS other than sandbar sharks per vessel per trip on July 18, 2018 (83 FR 33870) and increased to 45 LCS other than sandbar sharks per vessel per trip on November 7, 2018 (83 FR 55638). Even with both of the retention limit increases, the aggregated LCS landings only reached 55 percent of the annual quota, while the hammerhead shark landings reached 46 percent of the annual quota. Given the low aggregated LCS landings this year to date, NMFS anticipates the fishing season could be similar to last year, and thus believes that increasing the retention limit earlier could assist with the available quota being fully utilized. Without this early increase, fishermen in the Atlantic region may not have an opportunity to fully utilize the quotas in the region for the remainder of the year, and available quota will be underutilized.

Accordingly, as of June 25, 2019, NMFS is increasing the retention limit

for the commercial aggregated LCS and hammerhead shark management groups in the Atlantic region for directed shark limited access permit holders from 3 LCS other than sandbar sharks per vessel per trip to 36 LCS other than sandbar sharks per vessel per trip. This retention limit adjustment does not apply to directed shark limited access permit holders if the vessel is properly permitted to operate as a charter vessel or headboat for HMS and is engaged in a for-hire trip, in which case the recreational retention limits for sharks and ''no sale'' provisions apply (§ 635.22(a) and (c)); or if the vessel possesses a valid shark research permit under § 635.32 and a NMFS-approved observer is onboard, in which case the restrictions noted on the shark research permit apply.

All other retention limits and shark fisheries in the Atlantic region remain unchanged. This retention limit will remain at 36 LCS other than sandbar sharks per vessel per trip for the remainder of the 2019 fishing season, or until NMFS announces via a notice in the **Federal Register** another adjustment to the retention limit or a fishery closure, if warranted.

## Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

Prior notice is impracticable because the regulatory criteria for inseason retention limit adjustments are intended to allow the agency to respond quickly to existing management considerations, including remaining available shark quotas, estimated dates for the fishery closures, the regional variations in the shark fisheries, and equitable fishing opportunities. Additionally, regulations implementing Amendment 6 of the 2006 Atlantic Consolidated HMS FMP (80 FR 50074, August 18, 2015) intended that the LCS retention limit could be adjusted quickly throughout the fishing season to provide management flexibility for the shark fisheries and provide equitable fishing opportunities to fishermen throughout the regions. Based on available shark quotas and informed by shark landings in previous seasons, responsive adjustment to the LCS commercial retention limit from the incidental level is warranted as quickly as possible to allow fishermen to take advantage of available quotas while sharks are present in their region. For such adjustment to be practicable, it must occur in a timeframe that allows fishermen to take advantage of it.

Adjustment of the LCS fisheries retention limit in the Atlantic region will begin on June 25, 2019. Analysis of available data shows that adjustment of the LCS commercial retention limit upward to 36 would result in minimal risks of exceeding the aggregated LCS and hammerhead shark quotas in the Atlantic region based on our consideration of previous years' data. With quota available and with no measurable impacts to the stocks expected, it would be contrary to the public interest to require vessels to wait to harvest the sharks otherwise allowable through this action. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. Adjustment of the LCS commercial retention limit in the Atlantic region is effective June 25, 2019, to minimize any unnecessary disruption in fishing patterns, to allow the impacted fishermen to benefit from the adjustment, and to not preclude fishing opportunities by fishermen farther north as the sharks are likely going to be in the northern areas of the region for only a short period of time before migrating south again. Foregoing opportunities to harvest the respective quotas could have negative social and economic impacts for U.S. fishermen that depend upon catching the available quotas. Therefore, the AA finds there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness.

This action is being taken under § 635.24(a)(2) and is exempt from review under Executive Order 12866.

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

Dated: June 20, 2019.

**Jennifer M. Wallace,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2019–13483 Filed 6–24–19; 8:45 am]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register
Vol. 84, No. 122
Tuesday, June 25, 2019

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

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 150

**[NRC–2019–0114]**

### State of Vermont: NRC Staff Assessment of a Proposed Agreement Between the Nuclear Regulatory Commission and the State of Vermont

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed state agreement; request for comment.

**SUMMARY:** By letter dated April 11, 2019, Governor Philip Scott of the State of Vermont requested that the U.S. Nuclear Regulatory Commission (NRC or Commission) enter into an Agreement with the State of Vermont as authorized by Section 274b. of the Atomic Energy Act of 1954, as amended (AEA).

Under the proposed Agreement, the Commission would discontinue, and the State of Vermont would assume, regulatory authority over certain types of byproduct materials as defined in the AEA, source material, and special nuclear material in quantities not sufficient to form a critical mass.

As required by Section 274e. of the AEA, the NRC is publishing the proposed Agreement for public comment. The NRC is also publishing the summary of a draft assessment by the NRC staff of the State of Vermont's regulatory program. Comments are requested on the proposed Agreement and its effect on public health and safety. Comments are also requested on the draft staff assessment, the adequacy of the State of Vermont's program, and the State's program staff, as discussed in this document.

**DATES:** Submit comments by July 25, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

**ADDRESSES:** You may submit comments by the following method:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0114. Address questions about NRC dockets in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Duncan White, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–2598, email: *Duncan.White@nrc.gov* of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**SUPPLEMENTARY INFORMATION:**

## I. Obtaining Information and Submitting Comments

### *A. Obtaining Information*

Please refer to Docket ID NRC–2019–0114 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0114.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://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, at 301–415–4737, or by email to *pdr.resource@nrc.gov.* The final application for an AEA Section 274 Agreement from the State of Vermont, the draft assessment of the proposed Vermont program, and additional related correspondence between the NRC and the State for the regulation of agreement materials are available in ADAMS under Accession Nos. ML19107A432, ML19114A092, ML19115A214, ML19102A130 and ML19113A279.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

### *B. Submitting Comments*

Please include Docket ID NRC–2019–0114 in your comment submission. The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

## II. Additional Information on Agreements Entered Under Section 274 of the AEA

Under the proposed Agreement, the NRC would discontinue its authority over 36 licenses and would transfer its regulatory authority over those licenses to the State of Vermont. The NRC periodically reviews the performance of the Agreement States to assure compliance with the provisions of Section 274.

Section 274e. of the AEA requires that the terms of the proposed Agreement be published in the **Federal Register** for public comment once each week for four consecutive weeks. This document is being published in fulfillment of that requirement.

## III. Proposed Agreement With the State of Vermont

### *Background*

(a) Section 274b. of the AEA provides the mechanism for a State to assume regulatory authority from the NRC over certain radioactive materials and activities that involve use of these

materials. The radioactive materials, sometimes referred to as ''Agreement materials,'' are byproduct materials as defined in Sections 11e.(1), 11e.(2), 11e.(3), and 11e.(4) of the AEA; source material as defined in Section 11z. of the AEA; and special nuclear material as defined in Section 11aa. of the AEA, restricted to quantities not sufficient to form a critical mass.

The radioactive materials and activities (which together are usually referred to as the ''categories of materials'') that the State of Vermont requests authority over are:

1. The possession and use of byproduct material as defined in Section 11e.(1) of the Act;
2. The possession and use of byproduct material as defined in Section 11e.(3) of the Act;
3. The possession and use of byproduct material as defined in Section 11e.(4) of the Act;
4. The possession and use of source material; and
5. The possession and use of special nuclear material, in quantities not sufficient to form a critical mass.

(b) The proposed Agreement contains articles that:

(i) Specify the materials and activities over which authority is transferred;

(ii) Specify the materials and activities over which the Commission will retain regulatory authority;

(iii) Continue the authority of the Commission to safeguard special nuclear material, protect restricted data, and protect common defense and security;

(iv) Commit the State of Vermont and the NRC to exchange information as necessary to maintain coordinated and compatible programs;

(v) Provide for the reciprocal recognition of licenses;

(vi) Provide for the suspension or termination of the Agreement; and

(vii) Specify the effective date of the proposed Agreement.

The Commission reserves the option to modify the terms of the proposed Agreement in response to comments, to correct errors, and to make editorial changes. The final text of the proposed Agreement, with the effective date, will be published after the Agreement is approved by the Commission and signed by the NRC Chairman and the Governor of Vermont.

(c) The regulatory program is authorized by law under the Vermont Statutes Annotated (VT. STAT. ANN.) title 18, sections 1651 through 1657, which provides the Governor with the authority to enter into an Agreement with the Commission. The State of Vermont law contains provisions for the orderly transfer of regulatory authority over affected licenses from the NRC to the State. In a letter dated April 11, 2019, Governor Scott certified that the State of Vermont has a program for the control of radiation hazards that is adequate to protect public health and safety within the State of Vermont for the materials and activities specified in the proposed Agreement, and that the State desires to assume regulatory responsibility for these materials and activities (ADAMS Accession No. ML19116A227). After the effective date of the Agreement, licenses issued by the NRC would continue in effect as State of Vermont licenses until the licenses expire or are replaced by State-issued licenses.

(d) The draft staff assessment finds that the Vermont Department of Health's Radioactive Materials Program is adequate to protect public health and safety and is compatible with the NRC's regulatory program for the regulation of Agreement materials. However, the NRC staff identified several sections of the Vermont Radioactive Materials regulations that were either not compatible or needed additional editorial changes. By letter dated May 10, 2019, the NRC staff described these compatibility and editorial issues, and requested that the Vermont Department of Health reply within 60 days with a commitment to make the described regulatory changes as soon as practicable (ADAMS Accession No. ML19102A160). The resolution of these comments does not interfere with the NRC staff's processing of Vermont's Agreement State Application. On June 6, 2019, the NRC received a letter from the Vermont Department of Health committing to making these compatibility and editorial changes (ADAMS Accession No. ML19161A133). Therefore, the State of Vermont has committed to adopting an adequate and compatible set of radiation protection regulations that apply to byproduct, source, and special nuclear materials in quantities not sufficient to form a critical mass.

**Summary of the Draft NRC Staff Assessment of the State of Vermont's Program for the Regulation of Agreement Materials**

The NRC staff has examined the State of Vermont's request for an Agreement with respect to the ability of the State's radiation control program to regulate Agreement materials. The examination was based on the Commission's Policy Statement, ''Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement,'' (46 FR 7540, January 23, 1981, as amended by Policy Statements published at 46 FR 36969, July 16, 1981, and at 48 FR 33376, July 21, 1983) (Policy Statement), and the Office of Nuclear Material Safety and Safeguards Procedure SA-700, ''Processing an Agreement'' (available at *https://scp.nrc.gov/procedures/sa700.pdf* and *https://scp.nrc.gov/procedures/sa700_hb.pdf*). The Policy Statement has 28 criteria that serve as the basis for the NRC staff's assessment of the State of Vermont's request for an Agreement. The following section will reference the appropriate criteria numbers from the Policy Statement that apply to each section.

(a) *Organization and Personnel.* The NRC staff reviewed these areas under Criteria 1, 2, 20, and 24 in the draft staff assessment. The State of Vermont's proposed Agreement materials program for the regulation of radioactive materials is called the ''Radioactive Materials Program,'' and will be located within the existing Office of Radiological Health of the Vermont Department of Health.

The educational requirements for the Radioactive Materials Program staff are specified in the State of Vermont's personnel position descriptions and meet the NRC criteria with respect to formal education or combined education and experience requirements. All current staff members hold a Master's Degree in either environmental science or radiologic and imaging sciences. All have training and work experience in radiation protection. Supervisory level staff have at least 20 years of working experience in radiation protection.

The State of Vermont performed an analysis of the expected workload under the proposed Agreement. Based on the NRC staff review of the State of Vermont's analysis, the State has an adequate number of staff to regulate radioactive materials under the terms of the proposed Agreement. The State of Vermont will employ the equivalent of 1.25 full-time equivalent professional and technical staff to support the Radioactive Materials Program.

The State of Vermont has indicated that the Radioactive Materials Program has an adequate number of trained and qualified staff in place. The State of Vermont has developed qualification procedures for license reviewers and inspectors that are similar to the NRC's procedures. The Radioactive Materials Program staff has accompanied the NRC staff on inspections of NRC licensees in Vermont and participated in licensing training at NRC's Region I with Division of Nuclear Materials Safety staff. The

Radioactive Materials Program staff is also actively supplementing its experience through direct meetings, discussions, and facility visits with the NRC licensees in the State of Vermont and through self-study, in-house training, and formal training.

Overall, the NRC staff concluded that the Radioactive Materials Program staff identified by the State of Vermont to participate in the Agreement materials program has sufficient knowledge and experience in radiation protection, the use of radioactive materials, the standards for the evaluation of applications for licensing, and the techniques of inspecting licensed users of Agreement materials.

(b) *Legislation and Regulations.* The NRC staff reviewed these areas under Criteria 1–15, 17, 19, and 21–28 in the draft staff assessment. The Vermont Statutes Annotated, VT. STAT. ANN. tit. 18, sections 1651 through 1657 provide the authority to enter into the Agreement and establish the Vermont Department of Health as the lead agency for the State's Radioactive Materials Program. The Department has the requisite authority to promulgate regulations under the Vermont Statutes Annotated, VT. STAT. ANN. tit. 18, section 1653(b)(1) for protection against radiation. The Vermont Statutes Annotated, VT. STAT. ANN. tit. 18, sections 1651 through 1657 also provide the Radioactive Materials Program the authority to issue licenses and orders; conduct inspections; and enforce compliance with regulations, license conditions, and orders. The Vermont Statutes Annotated, VT. STAT. ANN. tit. 18, section 1654 requires licensees to provide access to inspectors.

The NRC staff verified that the State of Vermont adopted by reference the relevant NRC regulations in parts 19, 20, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 61, 70, 71, and 150 of title 10 of the *Code of Federal Regulations* (10 CFR) into the Vermont Radioactive Materials Rule, Chapter 6, Subchapter 5. During its review, the NRC staff identified several sections of the final Vermont Radioactive Materials regulations that are not compatible or need editorial changes. By letter dated May 10, 2019, the NRC staff described these compatibility and editorial issues, and requested that the Vermont Department of Health reply within 60 days with a commitment to make the described regulatory changes as soon as practicable. The resolution of these comments does not interfere with the NRC staff's processing of Vermont's Agreement State Application. On June 6, 2019, the NRC staff received a letter from the Vermont Department of Health committing to making these compatibility and editorial changes. Therefore, the State of Vermont has committed to adopting an adequate and compatible set of radiation protection regulations that apply to byproduct materials, source material and special nuclear material in quantities not sufficient to form a critical mass. The NRC staff also verified that the State of Vermont will not attempt to enforce regulatory matters reserved to the Commission.

(c) *Storage and Disposal.* The NRC staff reviewed these areas under Criteria 8, 9a, and 11 in the draft staff assessment. The State of Vermont has adopted NRC compatible requirements for the handling and storage of radioactive material, including regulations equivalent to the applicable standards contained in 10 CFR part 20, which address the general requirements for waste disposal, and part 61, which addresses waste classification and form. These regulations are applicable to all licensees covered under this proposed Agreement.

(d) *Transportation of Radioactive Material.* The NRC staff reviewed this area under Criteria 10 in the draft staff assessment. The State of Vermont has adopted compatible regulations to the NRC regulations in 10 CFR part 71. Part 71 contains the requirements licensees must follow when preparing packages containing radioactive material for transport. Part 71 also contains requirements related to the licensing of packaging for use in transporting radioactive materials.

(e) *Recordkeeping and Incident Reporting.* The NRC staff reviewed this area under Criteria 1 and 11 in the draft staff assessment. The State of Vermont has adopted compatible regulations to the sections of the NRC regulations that specify requirements for licensees to keep records and to report incidents or accidents involving the State's regulated Agreement materials.

(f) *Evaluation of License Applications.* The NRC staff reviewed this area under Criteria 1, 7, 8, 9a, 13, 14, 15, 20, 23, and 25 in the draft staff assessment. The State of Vermont has adopted compatible regulations to the NRC regulations that specify the requirements to obtain a license to possess or use radioactive materials. The State of Vermont has also developed licensing procedures and adopted NRC licensing guides for specific uses of radioactive material for use by the program staff when evaluating license applications.

(g) *Inspections and Enforcement.* The NRC staff reviewed these areas under Criteria 1, 16, 18, 19, and 23 in the draft staff assessment. The State of Vermont has adopted a schedule providing for the inspection of licensees as frequently as, or more frequently than, the inspection schedule used by the NRC. The State of Vermont's Radioactive Materials Program has adopted procedures for the conduct of inspections, reporting of inspection findings, and reporting inspection results to the licensees. Additionally, the State of Vermont has also adopted procedures for the enforcement of regulatory requirements.

(h) *Regulatory Administration.* The NRC staff reviewed this area under Criterion 23 in the draft staff assessment. The State of Vermont is bound by requirements specified in its State law for rulemaking, issuing licenses, and taking enforcement actions. The State of Vermont has also adopted administrative procedures to assure fair and impartial treatment of license applicants. The State of Vermont law prescribes standards of ethical conduct for State employees.

(i) *Cooperation with Other Agencies.* The NRC staff reviewed this area under Criteria 25, 26, and 27 in the draft staff assessment. The State of Vermont law provides for the recognition of existing NRC and Agreement State licenses and the State has a process in place for the transition of active NRC licenses. Upon the effective date of the Agreement, all active NRC radioactive materials licenses issued to facilities in the State of Vermont will be recognized as Vermont Department of Health licenses.

The State of Vermont also provides for ''timely renewal.'' This provision affords the continuance of licenses for which an application for renewal has been filed more than 30 days prior to the date of expiration of the license. NRC licenses transferred while in timely renewal are included under the continuation provision.

The State of Vermont regulations, in Vermont Radioactive Materials Rule Chapter 6, Subchapter 5, provide exemptions from the State's requirements for the NRC and the U.S. Department of Energy contractors or subcontractors; the exemptions must be authorized by law and determined not to endanger life or property and to otherwise be in the public interest. The proposed Agreement commits the State of Vermont to use its best efforts to cooperate with the NRC and the other Agreement States in the formulation of standards and regulatory programs for the protection against hazards of radiation, and to assure that the State's program will continue to be compatible with the Commission's program for the regulation of Agreement materials. The

proposed Agreement specifies the desirability of reciprocal recognition of licenses, and commits the Commission and the State of Vermont to use their best efforts to accord such reciprocity. The State of Vermont would be able to recognize the licenses of other jurisdictions by general license.

**Staff Conclusion**

Section 274d. of the AEA provides that the Commission shall enter into an Agreement under Section 274b. with any State if:

(a) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the Agreement materials within the State, and that the State desires to assume regulatory responsibility for the Agreement materials; and

(b) The Commission finds that the State program is in accordance with the requirements of Subsection 274o. and in all other respects compatible with the Commission's program for regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed Agreement.

The NRC staff has reviewed the proposed Agreement, the certification of Vermont Governor Scott, and the supporting information provided by the Radioactive Materials Program of the Vermont Department of Health. Based upon this review, the NRC staff concludes that the State of Vermont Radioactive Materials Program satisfies the Section 274d. criteria as well as the criteria in the Commission's Policy Statement ''Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement.'' The NRC staff also concludes that the proposed State of Vermont program to regulate Agreement materials, as comprised of statutes, regulations, procedures, and staffing, is compatible with the Commission's program and is adequate to protect the public health and safety with respect to the materials covered by the proposed Agreement. Therefore, the proposed Agreement meets the requirements of Section 274 of the AEA.

Dated at Rockville, Maryland, this 19th day of June, 2019.

For the Nuclear Regulatory Commission.

**Andrea L. Kock,**

*Director, Division of Materials Safety, Security, State, and Tribal Programs, Office of Nuclear Material Safety and Safeguards.*

Note: The following appendix will not appear in the Code of Federal Regulations.

**APPENDIX A**

**AN AGREEMENT BETWEEN THE UNITED STATES NUCLEAR REGULATORY COMMISSION AND THE STATE OF VERMONT FOR THE DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY AND RESPONSIBILITY WITHIN THE STATE PURSUANT TO SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED**

WHEREAS, The United States Nuclear Regulatory Commission (hereinafter referred to as ''the Commission'') is authorized under Section 274 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. Section 2011 *et seq.* (hereinafter referred to as ''the Act''), to enter into agreements with the Governor of the State of Vermont (hereinafter referred to as ''the State'') providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to byproduct materials as defined in Sections 11e.(1), (3), and (4) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and,

WHEREAS, The Governor of the State of Vermont is authorized under VT. STAT. ANN. tit. 18, § 1653 to enter into this Agreement with the Commission; and,

WHEREAS, The Governor of the State of Vermont certified on April 11, 2019, that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and,

WHEREAS, The Commission found on **[date]** that the program of the State of Vermont for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and,

WHEREAS, The State of Vermont and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and,

WHEREAS, The Commission and the State of Vermont recognize the desirability of the reciprocal recognition of licenses, and of the granting of limited exemptions from licensing of those materials subject to this Agreement; and,

WHEREAS, This Agreement is entered into pursuant to the provisions of the Act;

NOW, THEREFORE, It is hereby agreed between the Commission and the Governor of Vermont acting on behalf of the State as follows:

*ARTICLE I*

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7 and 8, and Section 161 of the Act with respect to the following materials:

1. Byproduct material as defined in Section 11e.(1) of the Act;
2. Byproduct material as defined in Section 11e.(3) of the Act;
3. Byproduct materials as defined in Section 11e.(4) of the Act;
4. Source materials; and
5. Special nuclear materials, in quantities not sufficient to form a critical mass.

*ARTICLE II*

This Agreement does not provide for the discontinuance of any authority, and the Commission shall retain authority and responsibility, with respect to:

A. The regulation of byproduct material as defined in Section 11e.(2) of the Act;

B. The regulation of the land disposal of byproduct, source, or special nuclear material received from other persons;

C. The evaluation of radiation safety information on sealed sources or devices containing byproduct, source, or special nuclear material and the registration of the sealed sources or devices for distribution, as provided for in regulations or orders of the Commission;

D. The regulation of the construction, operation, and decommissioning of any production or utilization facility or any uranium enrichment facility;

E. The regulation of the export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

F. The regulation of the disposal into the ocean or sea of byproduct, source, or

special nuclear material waste as defined in regulations or orders of the Commission;

G. The regulation of the disposal of such other byproduct, source, or special nuclear material as the Commission determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed without a license from the Commission; and

H. The regulation of activities not exempt from Commission regulation as stated in 10 CFR part 150.

*ARTICLE III*

With the exception of those activities identified in Article II, paragraphs D. through H., this Agreement may be amended, upon application by the State and approval by the Commission to include one or more of the additional activities specified in Article II, paragraphs A. through C., whereby the State may then exert regulatory authority and responsibility with respect to those activities.

*ARTICLE IV*

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption for licensing issued by the Commission.

*ARTICLE V*

This Agreement shall not affect the authority of the Commission under Subsection 161b. or 161i. of the Act to issue rules, regulations, or orders to promote the common defense and security, to protect restricted data, or to guard against the loss or diversion of special nuclear material.

*ARTICLE VI*

The Commission will cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that Commission and State programs for protection against the hazards of radiation will be coordinated and compatible. The State agrees to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against the hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of materials covered by this Agreement.

The State and the Commission agree to keep each other informed of proposed changes in their respective rules and regulations and to provide each other the opportunity for early and substantive contribution to the proposed changes.

The State and the Commission agree to keep each other informed of events, accidents, and licensee performance that may have generic implication or otherwise be of regulatory interest.

*ARTICLE VII*

The Commission and the State agree that it is desirable to provide reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any other Agreement State. Accordingly, the Commission and the State agree to develop appropriate rules, regulations, and procedures by which reciprocity will be accorded.

*ARTICLE VIII*

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State or upon request of the Governor of Vermont, may terminate or suspend all or part of this Agreement and reassert the licensing and regulatory authority vested in it under the Act, if the Commission finds that (1) such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of Section 274 of the Act.

Pursuant to Section 274j. of the Act, the Commission may, after notifying the Governor, temporarily suspend all or part of this Agreement without notice or hearing if, in the judgment of the Commission, an emergency situation exists with respect to any material covered by this agreement creating danger which requires immediate action to protect the health or safety of persons either within or outside of the State and the State has failed to take steps necessary to contain or eliminate the cause of danger within a reasonable time after the situation arose. The Commission shall periodically review actions taken by the State under this Agreement to ensure compliance with Section 274 of the Act, which requires a State program to be adequate to protect the public health and safety with respect to the materials covered by this Agreement and to be compatible with the Commission's program.

*ARTICLE IX*

This Agreement shall become effective on **[date]**, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at **[location]** this **[date]** day of **[month]**, 2019.

For the Nuclear Regulatory Commission.

Kristine L. Svinicki, Chairman

Done at **[location]** this **[date]** day of **[month]**, 2019.

For the State of Vermont.

Philip B. Scott, Governor

[FR Doc. 2019–13403 Filed 6–24–19; 8:45 am]

BILLING CODE 7590–01–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2019–0440; Product Identifier 2019–NM–032–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for all The Boeing Company Model 737–300, –400, and –500 series airplanes. This proposed AD was prompted by fuel system reviews conducted by the manufacturer. This proposed AD would require applying sealant to the fasteners in the fuel tanks, replacing wire bundle clamps external to the fuel tanks and installing Teflon sleeving under the clamps. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by August 9, 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 NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0440.

**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–2019–0440; 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:** Jeff Rothman, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3558; email: *jeffrey.rothman@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

The FAA invites 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–2019–0440; Product Identifier 2019–NM–032–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM 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 NPRM.

**Discussion**

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, the FAA issued a final rule titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction, and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements that rule included Amendment 21–78, which established Special Federal Aviation Regulation No. 88 (''SFAR 88'') to 14 CFR part 21. Subsequently, SFAR 88 was amended by: Amendment 21–82 (67 FR 57490, September 10, 2002; corrected at 67 FR 70809, November 26, 2002), Amendment 21–83 (67 FR 72830, December 9, 2002; corrected at 68 FR 37735, June 25, 2003, to change ''21–82'' to ''21–83''), and Amendment 21–101 (83 FR 9162, March 5, 2018).

Among other actions, SFAR 88 requires certain type design (*i.e.,* type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, the FAA established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, combination of failures, and unacceptable (failure) experience. For all three failure criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

This proposed AD was prompted by fuel system reviews conducted by the manufacturer. Boeing has found that some fuel tank fasteners can be an ignition source if a fault current or hot short occurs. A detailed analysis of the fault current threats was done to find the configuration necessary to safely conduct the fault current threats without causing sparks in the fuel tanks. Application of sealant on the fasteners in the fuel tanks at the wing rear spars, front spars and upper wing rib shear ties decreases the risk of ignition sources at those fuel tank fastener locations. In addition, external to the fuel tanks at locations along the wing rear spars, front spars, the forward cargo compartment station 540 bulkhead and the main wheel well station 663 bulkhead, installation of cushion clamps over Teflon sleeves on wire bundles decreases metal-to-metal contact between the clamps and their support brackets and will help prevent hot shorts. The FAA is proposing this AD to address potential ignition sources inside the fuel tank, which, in combination with flammable vapors, could result in a fuel tank fire or explosion, and consequent loss of the airplane.

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

The FAA reviewed Boeing Alert Service Bulletin 737–57A1321, dated February 8, 2019. This service information describes procedures for applying sealant to the fasteners in the fuel tanks at the wing rear spars, front spars, and upper wing rib shear ties. This service information also describes procedures for replacing wire bundle clamps external to the fuel tanks and installing Teflon sleeving under the clamps at locations along the wing rear spars, front spars, forward cargo compartment station 540 bulkhead, and main wheel well station 663 bulkhead.

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 proposing 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 the same type design.

**Proposed AD Requirements**

This proposed AD would require accomplishing the actions specified in the service information described previously. For information on the

procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0440.

**Costs of Compliance**

The FAA estimates that this proposed AD affects 268 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Apply sealant, replace clamps, install Teflon sleeving. | Up to 516 work-hours × $85 per hour = $43,860. | Up to $200 ..... | Up to $44,060 .... | Up to $11,808,080. |

**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 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**

The FAA 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 adding the following new airworthiness directive (AD):

**The Boeing Company:** Docket No. FAA–2019–0440; Product Identifier 2019–NM–032–AD.

**(a) Comments Due Date**

We must receive comments by August 9, 2019.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all The Boeing Company Model 737–300, –400, and –500 series airplanes, certificated in any category.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by fuel system reviews conducted by the manufacturer. The FAA is issuing this AD to address potential ignition sources inside the fuel tank, which, in combination with flammable vapors, could result in a fuel tank fire or explosion, and consequent loss of the airplane.

**(f) Compliance**

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

**(g) Apply Sealant, Replace Clamps, and Install Teflon Sleeving**

Except as specified in paragraph (h) of this AD: At the applicable times specified in paragraph 1.E., ''Compliance,'' of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1321, dated February 8, 2019, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1321, dated February 8, 2019.

**(h) Exceptions to Service Information Specifications**

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Service Bulletin 737–57A1321, dated February 8, 2019, uses the phrase ''the original issue date of this service bulletin,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Alert Service Bulletin 737–57A1321, dated February 8, 2019, specifies contacting Boeing: This AD requires doing actions using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

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

(1) The Manager, Los Angeles 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)(2) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO Branch, FAA, to

make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) Except as specified by paragraph (h)(2) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(4)(i) and (i)(4)(ii) of this AD apply.

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

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

**(j) Related Information**

(1) For more information about this AD, contact Jeff Rothman, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3558; email: *jeffrey.rothman@faa.gov.*

(2) For information about AMOCs, contact Serj Harutunian, Aerospace Engineer, Propulsion Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5254; fax: 562–627–5210; email: *serj.harutunian@faa.gov.*

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on June 10, 2019.

**Michael Kaszycki,**

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

[FR Doc. 2019–13049 Filed 6–24–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2019–0480; Product Identifier 2019–NM–041–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to supersede Airworthiness Directive (AD) 2013–07–09, which applies to certain The Boeing Company Model 737–700, –700C, –800, and –900ER series airplanes, Model 747–400F series airplanes, and Model 767–200 and –300 series airplanes. AD 2013–07–09 requires a general visual inspection for affected serial numbers of the crew oxygen mask stowage box units, and replacement or re-identification as necessary. Since the FAA issued AD 2013–07–09, the agency has determined that the affected parts may be installed on airplanes outside the original applicability of AD 2013–07–09. This proposed AD would retain the requirements of AD 2013–07–09 and expand the applicability to include those other airplanes. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by August 9, 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 NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0480.

### 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–2019–0480; 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:** For more information about this AD, contact Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3570; email: *susan.l.monroe@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

The FAA invites 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–2019–0480; Product Identifier 2019–NM–041–AD'' at the beginning of your comments. The agency specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The agency will consider all comments received by the closing date and may amend this NPRM 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 agency will also post a report summarizing each substantive verbal contact received about this proposed AD.

### Discussion

The FAA issued AD 2013–07–09, Amendment 39–17413 (78 FR 22178, April 15, 2013) (''AD 2013–07–09''), for certain The Boeing Company Model 737–700, –700C, –800, and –900ER series airplanes, Model 747–400F series airplanes, and Model 767–200 and –300

series airplanes. AD 2013–07–09 requires a general visual inspection for affected serial numbers of the crew oxygen mask stowage box units, and replacement or re-identification as necessary. AD 2013–07–09 resulted from reports indicating that certain crew oxygen mask stowage box units were possibly delivered with a burr in the inlet fitting. The burr might break loose during test or operation, and might pose an ignition source or cause an inlet valve to jam. The FAA issued AD 2013–07–09 to address this possible ignition source, which could result in an oxygen-fed fire; or an inlet valve jam in a crew oxygen mask stowage box unit, which could result in restricted flow of oxygen.

**Actions Since AD 2013–07–09 Was Issued**

Since the FAA issued AD 2013–07–09, it has been determined that the affected parts may be installed as rotable spares on airplanes outside of the applicability of AD 2013–07–09, thereby subjecting those airplanes to the unsafe condition. Therefore, the applicability in this proposed AD has been expanded to include all The Boeing Company Model 737–700, –700C, –800, and –900ER series airplanes, Model 747–400F series airplanes, and Model 767–200 and –300 series airplanes.

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

The FAA reviewed Boeing Alert Service Bulletin 737–35A1121, Revision 1, dated November 7, 2011; Boeing Alert Service Bulletin 747–35A2126, Revision 1, dated September 29, 2011; Boeing Alert Service Bulletin 767–35A0057, Revision 1, dated November 17, 2011; and Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011; which the Director of the Federal Register approved for incorporation by reference as of May 20, 2013 (78 FR 22178, April 15, 2013). 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 proposing this AD because the FAA 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.

**Proposed AD Requirements**

This proposed AD would retain all requirements of AD 2013–07–09, and expand the applicability to include all The Boeing Company Model 737–700, –700C, –800, and –900ER series airplanes, Model 747–400F series airplanes, and Model 767–200 and –300 series airplanes. This proposed AD would require accomplishing the actions specified in the service information specified previously.

**Costs of Compliance**

The FAA estimates that this proposed AD affects 2,140 airplanes of U.S. registry. The agency estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Inspection (retained action from AD 2013-07-09) (40 airplanes). | 1 work-hour × $85 per hour = $85 ..... | $0 | $85 | $3,400 |
| Inspection (new action) (2,100 airplanes) ..... | 1 work-hour × $85 per hour = $85 ..... | 0 | 85 | 178,500 |

The FAA has received no definitive data that would enable the agency to provide cost estimates for the on-condition actions specified in this proposed AD.

**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 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**

The FAA has 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 that the 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) 2013–07–09, Amendment 39–17413 (78

FR 22178, April 15, 2013), and adding the following new AD:

**The Boeing Company:** Docket No. FAA–2019–0480; Product Identifier 2019–NM–041–AD.

**(a) Comments Due Date**

The FAA must receive comments on this AD action by August 9, 2019.

**(b) Affected ADs**

This AD replaces AD 2013–07–09, Amendment 39–17413 (78 FR 22178, April 15, 2013) (''AD 2013–07–09'').

**(c) Applicability**

This AD applies to all The Boeing Company airplanes, certificated in any category, as identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD.

(1) Model 737–700, –700C, –800, and –900ER series airplanes.

(2) Model 747–400F series airplanes.

(3) Model 767–200 and –300 series airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 35, Oxygen.

**(e) Unsafe Condition**

This AD was prompted by reports indicating that certain crew oxygen mask stowage box units were possibly delivered with a burr in the inlet fitting. The burr might break loose during test or operation, and might pose an ignition source or cause an inlet valve to jam. We are issuing this AD to address this possible ignition source, which could result in an oxygen-fed fire; or an inlet valve jam in a crew oxygen mask stowage box unit, which could result in restricted flow of oxygen.

**(f) Compliance**

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

**(g) Retained Inspection and Corrective Action, With No Changes**

This paragraph restates the requirements of paragraph (g) of AD 2013–07–09 with no changes. For The Boeing Company Model 737 airplanes as identified in Boeing Alert Service Bulletin 737–35A1121, Revision 1, dated November 7, 2011; The Boeing Company Model 747 airplanes as identified in Boeing Alert Service Bulletin 747–35A2126, Revision 1, dated September 29, 2011; and The Boeing Company Model 767 airplanes as identified in Boeing Alert Service Bulletin 767–35A0057, Revision 1, dated November 17, 2011: Within 24 months after May 20, 2013 (the effective date of AD 2013–07–09); Do a general visual inspection to determine if the serial number of the crew oxygen mask stowage box unit is identified in the Appendix of Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–35A1121, Revision 1, dated November 7, 2011; Boeing Alert Service Bulletin 747–35A2126, Revision 1, dated September 29, 2011; or Boeing Alert Service Bulletin 767–35A0057, Revision 1, dated November 17, 2011; as applicable. A review of airplane maintenance records is acceptable in lieu of this inspection if the serial number of the crew oxygen mask stowage box unit can be conclusively determined from that review.

(1) If any crew oxygen mask stowage box unit has a serial number identified in table 1 of the Appendix of Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011: Before further flight, replace the crew oxygen mask stowage box unit with a new or serviceable unit, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–35A1121, Revision 1, dated November 7, 2011; Boeing Alert Service Bulletin 747–35A2126, Revision 1, dated September 29, 2011; or Boeing Alert Service Bulletin 767–35A0057, Revision 1, dated November 17, 2011; as applicable.

(2) If any crew oxygen mask stowage box unit has a serial number identified in table 2 of the Appendix of Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011: Before further flight, add the letter ''I'' to the end of the serial number (identified as ''SER'') on the identification label, in accordance with the Accomplishment Instructions of Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011; and reinstall in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–35A1121, Revision 1, dated November 7, 2011; Boeing Alert Service Bulletin 747–35A2126, Revision 1, dated September 29, 2011; or Boeing Alert Service Bulletin 767–35A0057, Revision 1, dated November 17, 2011; as applicable.

(3) If no crew oxygen mask stowage box unit has a serial number identified in the Appendix of Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011: Unless a records review was done to determine the serial number, before further flight, reinstall the crew oxygen mask stowage box unit, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–35A1121, Revision 1, dated November 7, 2011; Boeing Alert Service Bulletin 747–35A2126, Revision 1, dated September 29, 2011; or Boeing Alert Service Bulletin 767–35A0057, Revision 1, dated November 17, 2011; as applicable.

**(h) Retained Parts Installation Prohibition, With No Changes**

This paragraph restates the requirements of paragraph (h) of AD 2013–07–09 with no changes. For airplanes identified in paragraph (g) of this AD: As of May 20, 2013 (the effective date of AD 2013–07–09), no person may install a crew oxygen mask stowage box unit with a serial number listed in the Appendix of Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011, on any airplane.

**(i) New Inspection and Corrective Action**

For airplanes other than those identified in paragraph (g) of this AD: Within 24 months after the effective date of this AD, do a general visual inspection to determine if the serial number of the crew oxygen mask stowage box unit is identified in the Appendix of Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–35A1121, Revision 1, dated November 7, 2011; Boeing Alert Service Bulletin 747–35A2126, Revision 1, dated September 29, 2011; or Boeing Alert Service Bulletin 767–35A0057, Revision 1, dated November 17, 2011; as applicable. A review of airplane maintenance records is acceptable in lieu of this inspection if the serial number of the crew oxygen mask stowage box unit can be conclusively determined from that review.

(1) If any crew oxygen mask stowage box unit has a serial number identified in table 1 of the Appendix of Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011: Before further flight, replace the crew oxygen mask stowage box unit with a new or serviceable unit, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–35A1121, Revision 1, dated November 7, 2011; Boeing Alert Service Bulletin 747–35A2126, Revision 1, dated September 29, 2011; or Boeing Alert Service Bulletin 767–35A0057, Revision 1, dated November 17, 2011; as applicable.

(2) If any crew oxygen mask stowage box unit has a serial number identified in table 2 of the Appendix of Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011: Before further flight, add the letter ''I'' to the end of the serial number (identified as ''SER'') on the identification label, in accordance with the Accomplishment Instructions of Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011; and reinstall in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–35A1121, Revision 1, dated November 7, 2011; Boeing Alert Service Bulletin 747–35A2126, Revision 1, dated September 29, 2011; or Boeing Alert Service Bulletin 767–35A0057, Revision 1, dated November 17, 2011; as applicable.

(3) If no crew oxygen mask stowage box unit has a serial number identified in the Appendix of Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011: Unless a records review was done to determine the serial number, before further flight, reinstall the crew oxygen mask stowage box unit, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–35A1121, Revision 1, dated November 7, 2011; Boeing Alert Service Bulletin 747–35A2126, Revision 1, dated September 29, 2011; or Boeing Alert Service Bulletin 767–35A0057, Revision 1, dated November 17, 2011; as applicable.

**(j) New Parts Installation Prohibition**

For airplanes other than those identified in paragraph (g) of this AD: As of the effective date of this AD, no person may install a crew oxygen mask stowage box unit with a serial number listed in the Appendix of Intertechnique Service Bulletin MXP1/4–35–175, Revision 2, dated May 10, 2011, on any airplane.

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

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

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

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

(4) AMOCs approved previously for AD 2013–07–09 are approved as AMOCs for the corresponding provisions of this AD.

**(l) Related Information**

(1) For more information about this AD, contact Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3570; email: *susan.l.monroe@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on June 12, 2019.

**Michael Kaszycki,**

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

[FR Doc. 2019–13336 Filed 6–24–19; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2019–0482; Product Identifier 2019–NM–066–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus SAS Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus SAS Model A300 series airplanes; Airbus SAS Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Airbus SAS Model A310 series airplanes. This proposed AD was prompted by a report indicating that the trimmable horizontal stabilizer (THS) actuator ball nut trunnion lower attachment was missing parts. This proposed AD would require a one-time detailed inspection of the THS actuator right-hand spherical bearing and retaining parts (bolt, tab washer, and end cap) for correct installation of the retaining parts and correct bolt position, and applicable corrective actions, as specified in an European Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by August 9, 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 the material identified in this proposed AD that will be incorporated by reference (IBR), contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +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–2019–0482; 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; phone and fax: 206–231–3225.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

The FAA invites 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–2019–0482; Product Identifier 2019–NM–066–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

The FAA will post all comments, 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 the agency receives about this NPRM.

**Discussion**

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0078, dated March 29, 2019 (''EASA AD 2019–0078'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the

MCAI''), to correct an unsafe condition for all Airbus SAS Model A300 series airplanes; Airbus SAS Model A300–600 series airplanes; and Airbus SAS Model A310 series airplanes. The MCAI states:

During maintenance on an A300–600 aeroplane, affected parts were found missing from THS actuator ball nut trunnion lower attachment. The THS actuator lower attachment has a fail-safe design through a primary and secondary load path, which ensures the load path continuity between the horizontal tail plane and the actuator. The primary load path is engaged thanks in particular to these affected parts.

Investigation results highlighted that human error is the most likely scenario to have caused the affected parts to have been missing. In flight, absence of affected parts would cause THS actuator secondary load path engagement, which is designed to withstand the full loads only for a limited period of time.

This condition, if not detected and corrected, could lead to THS actuator failure, possibly resulting in loss of control of the aeroplane.

To address this potential unsafe condition, Airbus issued the applicable SB [Airbus Service Bulletin A300–27–0206; Airbus Service Bulletin A300–27–6073; and Airbus Service Bulletin A310–27–2108] to provide inspection instructions.

For the reason described above, this [EASA] AD requires a one-time detailed inspection (DET) of the affected parts [for correct installation of the retaining parts and correct bolt position] to establish fleet-wide status and, depending on findings, accomplishment of applicable corrective action(s).

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

EASA AD 2019–0078 describes procedures for a one-time detailed inspection of the THS actuator right-hand spherical bearing and retaining parts for correct installation of the retaining parts and correct bolt position, and applicable corrective actions. Corrective actions include torqueing and securing the bolt with new lockwire, or installing new dowel, end cap, washer, bolt, and securing with new lockwire. 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 the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is 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 2019–0078 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

**Explanation of Required Compliance Information**

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. As a result, EASA AD 2019–0078 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with the provisions specified in EASA AD 2019–0078, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Service information specified in EASA AD 2019–0078 that is required for compliance with EASA AD 2019–0078 will be available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0482 after the FAA final rule is published.

**Costs of Compliance**

The FAA estimates that this proposed AD affects 128 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| 2 work-hours × $85 per hour = $170 | $0 | $170 | $21,760 |

The FAA estimates the following costs to do any necessary on-condition repairs that would be required based on the results of any required actions. The FAA has no way of determining the number of aircraft that might need these on-condition repairs:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

| Labor cost | Parts cost | Cost per product |
|---|---|---|
| 2 work-hours × $85 per hour = $170 | * | $170 * |

* The FAA has received no definitive data that would enable the agency to provide parts cost estimates for the on-condition repairs specified in this proposed AD.

The FAA has received no definitive data that would enable us to provide cost estimates for the other on-condition action specified in this proposed AD.

**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 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

The FAA 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 adding the following new airworthiness directive (AD):

**Airbus SAS:** Docket No. FAA–2019–0482; Product Identifier 2019–NM–066–AD.

**(a) Comments Due Date**

The FAA must receive comments by August 9, 2019.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all the Airbus SAS airplanes identified in paragraphs (c)(1) through (c)(6) of this AD, certificated in any category.

(1) Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes.

(2) Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(3) Model A300 B4–605R and B4–622R airplanes.

(4) Model A300 F4–605R and F4–622R airplanes.

(5) Model A300 C4–605R Variant F airplanes.

(6) Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 27, Flight controls.

**(e) Reason**

This AD was prompted by a report indicating that the trimmable horizontal stabilizer (THS) actuator ball nut trunnion lower attachment was missing the THS actuator right-hand spherical bearings and retaining parts (bolt, tab washer, and end cap). The FAA is issuing this AD to address missing THS actuator right-hand spherical bearings and retaining parts from the THS actuator ball nut trunnion lower attachment, which could lead to THS actuator failure, possibly resulting in loss of control of the airplane.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Aviation Safety Agency (EASA) AD 2019–0078, dated March 29, 2019 (''EASA AD 2019–0078'').

**(h) Exceptions to EASA AD 2019–0078**

(1) For purposes of determining compliance with the requirements of this AD: Where EASA AD 2019–0078 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0078 does not apply to this AD.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(3) *Required for Compliance (RC)*: For any service information referenced in EASA AD 2019–0078 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

**(j) Related Information**

(1) For information about EASA AD 2019–0078, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +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 2019–0078 may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0482.

(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; phone and fax: 206–231–3225.

Issued in Des Moines, Washington, on June 18, 2019.

**Michael Kaszycki,**

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

[FR Doc. 2019–13332 Filed 6–24–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

**RIN 2900–AQ62**

### Health Professional Scholarship Program

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend its regulations that govern the Health Professional Scholarship Program (HPSP). This rule would ensure that VA award not less than 50 HPSP scholarships each year to students who are accepted for enrollment or are enrolled in a program of education or training that leads to employment as a physician or dentist until such a date as VA determines the current staffing shortage is reduced. This rule would also expand the number of years of obligated service that a HPSP participant would have to serve in VA in the discipline for which the HPSP was awarded. This rulemaking would implement the mandates of the VA MISSION Act of 2018.

**DATES:** Comments must be received on or before August 26, 2019.

**ADDRESSES:** Written comments may be submitted through *http://www.Regulations.gov*; by mail or hand-delivery to: Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1064, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll-free telephone number.) Comments should indicate that they are submitted in response to ''RIN 2900–AQ62-Health Professional Scholarship Program.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1064, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free telephone number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov*.

**FOR FURTHER INFORMATION CONTACT:** Nicole Nedd, Director, Scholarships and Clinical Education. 1250 Poydras Street. Suite 1000 New Orleans, LA 70113. *Nicole.Nedd@va.gov.* (504) 507–4895 (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** On June 6, 2018, section 301 of Public Law 115–182, the John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018, or the VA MISSION Act of 2018, amended title 38 of the United States Code (U.S.C.) 7612(b) and 7617, which govern the Health Professional Scholarship Program (HPSP). This program is regulated under title 38 of the Code of Federal Regulations (CFR) 17.600 through 17.612. Section 7612(b) of 38 U.S.C. was amended to state that VA will ensure that not less than 50 HPSP scholarships are awarded each year to students who are accepted for enrollment or are enrolled in a program of education or training that leads to employment as a physician or dentist until such a date as VA determines that there is a staffing shortage of less than 500 individuals in these health care professions in VA. The VA MISSION Act of 2018 further amended section 7612(b) to state that once the staffing shortage is less than 500 health care professionals, VA will award HPSP scholarships each year to not less than 10 percent of the total staffing shortage of physicians and dentists. Section 7612 was also amended by expanding the number of years of obligated service that a participant who pursues a course of study leading to employment as a physician or dentist would have to serve in VA in a discipline for which the HPSP was awarded. Instead of one year of obligated service for each school year or part thereof for which the participant was awarded a scholarship, the VA MISSION Act of 2018 amended this requirement to 18 months of obligated service for each school or part thereof for which the participant was awarded a scholarship. The VA MISSION Act of 2018 also amended 38 U.S.C. 7617 by adding that a participant has breached the service agreement if the participant fails to successfully complete post-graduate training leading to eligibility for board certification for employment as a physician. This proposed rulemaking would implement the mandates of section 301 of the VA MISSION Act of 2018 by proposing to amend 38 CFR 17.603, 17.607, and 17.610 as further described below.

#### 17.603 Availability of HPSP Scholarships

We would amend § 17.603(b) to comply with the requirements of section 301 of the VA MISSION Act of 2018 by establishing proposed paragraph (b)(1), which would state the new priorities for awarding the HPSP scholarship to physicians and dentists. Proposed paragraph (b)(1)(i) would state that VA would ''award not less than 50 HPSP to individuals who are accepted for enrollment or are enrolled in a program of education or training leading to employment as a physician or dentist until such date as VA determines that the staffing shortage of physicians and dentists in VA is less than 500.'' In proposed paragraph (b)(1)(ii), we would state that once the staffing shortage of physicians and dentists is less than 500, ''VA will award HPSP scholarships to individuals in an amount equal to not less than ten percent of the staffing shortage of physicians and dentists in VA.''

Current paragraph (b) describes the qualifying fields of education for which VA will grant HPSP scholarships. We would add new paragraph (b)(2) which would restate current paragraph (b) with one edit to state that the requirements of this paragraph would apply to health care professions other than physicians or dentists.

#### 17.607 Obligated Service

We propose to amend § 17.607(c)(1) by adding a new proposed paragraph (c)(1)(i) and renumbering current paragraph (c)(1) as proposed paragraph (c)(1)(ii). Proposed paragraph (c)(1)(i) would state the duration of the obligated service for physicians and dentists. This proposed paragraph would state that ''a participant who attended school as a full-time student will agree to serve as a full-time physician or dentist in the Veterans Health Administration for 18 months for each school year or part thereof for which a scholarship was awarded. This proposed paragraph would be in accordance with section 301 of the VA MISSION Act of 2018.

Current paragraph (c)(1) describes the duration of service for full-time and part-time students. We would add new paragraph (c)(1)(ii) which would restate current paragraph (c)(1) with one edit to distinguish that this paragraph would apply to health care professions other than physicians or dentists.

#### 17.610 Failure To Comply With Terms and Conditions of Participation

We would amend § 17.610 by adding a new proposed paragraph (b)(4), redesignating current paragraph (b)(4) as

proposed (b)(5), and redesignating current (b)(5) as proposed (b)(6). New proposed paragraph (b)(4) would add the new condition for breach of agreement for a physician as mandated by section 301 of the VA MISSION Act of 2018 by stating that if a participant who ''is enrolled in a program or education or training leading to employment as a physician, fails to successfully complete post-graduate training leading to eligibility for board certification in a specialty.'' No further edits would be made to § 17.610.

**Effect of Rulemaking**

The Code of Federal Regulations, as proposed to be revised by this proposed rulemaking, would represent the exclusive legal authority on this subject. No contrary rules or procedures would be authorized. All VA guidance would be read to conform with this proposed rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

**Paperwork Reduction Act**

This rulemaking does not contain any provisions constituting collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

**Regulatory Flexibility Act**

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking would be exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

**Executive Orders 12866, 13563 and 13771**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB), 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 this Executive Order.''

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action and determined that the action is not a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm* by following the link for VA Regulations Published from FY 2004 through FYTD.

This proposed rule is not expected to be an E.O. 13771 regulatory action because this proposed rule is not significant under E.O. 12866.

**Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

**Catalog of Federal Domestic Assistance**

There are no Catalog of Federal Domestic Assistance numbers and titles for this rule.

**List of Subjects in 38 CFR Part 17**

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

**Signing Authority**

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on May 31, 2019, for publication.

Dated: June 19, 2019.

**Consuela Benjamin,**

*Regulations Development Coordinator, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.*

For the reasons set forth in the preamble, we propose to amend 38 CFR part 17 as follows:

## PART 17—MEDICAL

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

**Authority:** 38 U.S.C. 501, and as noted in specific sections.

* * * * *

■ 2. Amend § 17.603 by revising paragraph (b) to read as follows:

**§ 17.603 Availability of HPSP scholarships.**

* * * * *

(b) *Qualifying fields of education.* (1) *Physicians and dentists.* (i) VA will award not less than 50 HPSP scholarships each year to individuals who are accepted for enrollment or are enrolled in a program of education or training leading to employment as a physician or dentist until such date as VA determines that the staffing shortage of physicians and dentists in VA is less than 500.

(ii) Once the staffing shortage of physicians and dentists is less than 500, VA will award HPSP scholarships to individuals in an amount equal to not less than ten percent of the staffing shortage of physicians and dentists in VA.

(2) *Other health care professions.* VA will grant HPSP scholarships in a course of study in those disciplines or programs other than physician or dentist where recruitment is necessary for the improvement of health care of

veterans as listed in 38 U.S.C. 7401(1) and (3).

* * * * *

■ 3. Amend § 17.607 by revising paragraph (c)(1) to read as follows.

**§ 17.607 Obligated service.**

* * * * *

(c) *Duration of service.* (1) *Full-time student.* (i) *Physician or dentist.* A participant who attended school as a full-time student will agree to serve as a full-time physician or dentist in the Veterans Health Administration for 18 months for each school year or part thereof for which a scholarship was awarded.

(ii) *Other health care profession.* A participant who attended school as a full-time student in a health care profession other than physician or dentist will agree to serve as a full-time clinical employee in the Veterans Health Administration for 1 calendar year for each school year or part thereof for which a scholarship was awarded, but for no less than 2 years.

* * * * *

■ 4. Amend § 17.610 by:

■ a. Redesignating paragraphs (b)(4) and (b)(5) as paragraphs (b)(5) and (b)(6).

■ b. Adding a new paragraph (b)(4).

The addition to read as follows:

**§ 17.610 Failure to comply with terms and conditions of participation.**

* * * * *

(b) * * *

(4) Who is enrolled in a program or education or training leading to employment as a physician, fails to successfully complete post-graduate training leading to eligibility for board certification in a specialty.

* * * * *

[FR Doc. 2019–13382 Filed 6–24–19; 8:45 am]

**BILLING CODE 8320–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R07–OAR–2019–0334; FRL–9995–33–Region 7]**

## Air Plan Approval; Missouri; Infrastructure State Implementation Plan Requirements for the 2015 Ozone National Ambient Air Quality Standard

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve elements of a State Implementation Plan (SIP) revision submission from the State of Missouri addressing the applicable requirements of section 110 of the Clean Air Act (CAA) for the 2015 Ozone ($O_3$) National Ambient Air Quality Standard (NAAQS). Section 110 requires that each state adopt and submit a SIP revision to support the implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by the EPA. These SIPs are commonly referred to as ''infrastructure'' SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. The EPA is also proposing to approve a request from the state to exempt all counties in the Metropolitan Kansas City Interstate Air Quality Control Region (AQCR) and all of Jefferson and most of Franklin (except Boles Township) counties in the Metropolitan St. Louis Interstate AQCR from needing an ozone contingency plan meeting the requirements of our regulations.

**DATES:** Comments must be received on or before July 25, 2019.

**ADDRESSES:** You may send comments, identified by Docket ID No. EPA–R07–OAR–2019–0334 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:** Mrs. Tracey Casburn Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7016; email address *casburn.tracey@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document ''we,'' ''us,'' and ''our'' refer to the EPA. A technical support document (TSD) is included in this proposed rulemaking docket.

### Table of Contents

I. Written Comments
II. What is being addressed in this document?
III. Have the requirements for approval of a sip revision been met?
IV. What action is the EPA taking?
V. Statutory and Executive Order Reviews

### I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2019–0334, 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 the infrastructure SIP submission received from the state on April 11, 2019, in accordance with section 110(a)(1) of the CAA. Specifically, the EPA is proposing to approve the following infrastructure elements of section 110(a)(2) of the CAA: (A) through (C), (D)(i)(II)- prevent significant deterioration of air quality (prong 3) and protection of visibility (prong 4), (D)(ii), (E) through (H), and (J) through (M). Elements of section 110(a)(2)(D)(i)(I)—significant contribution to nonattainment (prong 1) and interfering with maintenance of the NAAQs (prong 2) were not addressed in the submission. The state has provided public notice of a SIP revision addressing prongs 1 and 2, and the EPA expects to receive that submission from the state later. Section 110(a)(2)(I) was also not addressed in the submission, however, the EPA does not expect infrastructure SIP submissions to address element (I). Section 110(a)(2)(I) requires states to meet the applicable SIP requirements of part D of the CAA relating to designated nonattainment areas. The specific part D submissions for designated nonattainment areas are subject to different submission schedules than those for section 110 infrastructure elements. The EPA will act on part D attainment plan SIP submissions through a separate rulemaking governed by the requirements for nonattainment areas, as described in part D.

The EPA is also proposing to approve a request from the state to exempt all counties in the Kansas City AQCR and Jefferson and Franklin (except Bowles Township) counties in the St. Louis AQCR from needing to meet the requirement to have an ozone contingency plan found in at 40 CFR part 51 subpart H.[1]

A technical support document (TSD) is included as part of the docket to this action and it includes an analysis of how the EPA determined that the submission meets the applicable 110(a)(1) and (2) requirements for infrastructure SIPs and has meet the criteria for an exemption from needing an ozone contingency plan for all counties in the Kansas City AQCR and for Jefferson and Franklin (except Bowles Township) counties in the St. Louis AQCR.

## III. Have the requirements for approval of a SIP revision been met?

The submission has met the public notice requirements of 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The state provided a public comment period for the submission from December 31, 2018, to February 7, 2019, and held a public hearing on January 31, 2019. The state received comments from the EPA during the public comment period; the EPA was the only commenter. The state addressed the EPA's comments. As explained in more detail in the TSD, the submission meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

## IV. What action is the EPA taking?

The EPA is proposing to approve the April 11, 2019, submission addressing the infrastructure elements for the 2015 $O_3$ NAAQS. Specifically, the EPA is proposing to approve the following infrastructure elements of section 110(a)(2): (A) through (C), (D)(i)(II)—prong 3 and prong 4, (D)(ii), (E) through (H), and (J) through (M). The EPA is not acting on the elements of section 110(a)(2)(D)(i)(I)—prong 1 and prong 2 because those elements were not addressed in the submission. Section 110(a)(2)(I) was not addressed in the submission and the EPA would not expect it to be.

The EPA is also proposing to approve a request from the state to exempt all counties in the Kansas City AQCR and Jefferson and Franklin (except Bowles Township) counties in the St. Louis AQCR from needing to meet the requirement to have an ozone contingency plan found in at 40 CFR part 51 subpart H.

The EPA is processing this as a proposed action because it is soliciting comments. Final rulemaking will occur after consideration of any comments.

## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this 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 (Public Law 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of 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 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, Air quality control region, Contingency plan, Incorporation by reference, Infrastructure, Intergovernmental relations, Exemption, Ozone.

Dated: June 18, 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 (e) is amended by adding the entry ''(78)'' in numerical order to read as follows:

**§ 52.1320 Identification of plan.**

* * * * *

(e) * * *

[1] 51.152(d) (1) allows the Administrator to exempt portions of a Priority I, IA, or II AQCR which have been designated as attainment or unclassifiable for national primary and secondary standards under section 107 of the Act from the requirement to have a contingency plan.

EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

| Name of non-regulatory SIP provision | Applicable geographic or nonattainment area | State submittal date | EPA Approval date | Explanation |
|---|---|---|---|---|
| * | * | * | * * | * * |
| (78) Sections 110 (a)(1) and 110(a)(2) Infrastructure Requirements for the 2015 Ozone NAAQS. Ozone Contingency Plan Exemptions. | Statewide ..... | 4/11/2019 | [Date of publication of the final rule in the **Federal Register**], [**Federal Register** citation of the final rule]. | This action proposes to approve the following CAA elements: 110(a)(1) and 110(a)(2)(A), (B), (C), (D)(i)(II)—prongs 3 and 4, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). 110(a)(2)(D)(i)(I)—prongs 1 and 2 were not included in the submission. 110(a)(2)(I) is not applicable.<br>This action proposes to approve ozone contingency plan exemptions for all counties in the Kansas City AQCR and Jefferson and Franklin (except Bowles Township) counties in the St. Louis AQCR.<br>[EPA–R07–OAR–2019–0334; FRL–9995–33–Region 7]. |

[FR Doc. 2019–13374 Filed 6–24–19; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 228

**[EPA–R04–OW–2016–0354; FRL–9995–38-Region 4]**

## Ocean Dumping: Modification of an Ocean Dredged Material Disposal Site Offshore of Mobile, Alabama

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a modification of the existing EPA designated ocean dredged material disposal site (ODMDS) offshore of Mobile, Alabama (referred to hereafter as the existing Mobile ODMDS) pursuant to the Marine Protection, Research and Sanctuaries Act, as amended (MPRSA). The primary purpose for the site modification is to enlarge the site to serve the long-term need for a location to dispose of suitable material dredged from the Mobile Harbor Federal navigation channel, and for the disposal of suitable dredged material for persons who receive an MPRSA permit for such disposal. The modified site will be subject to monitoring and management to ensure continued protection of the marine environment.

**DATES:** Written comments must be received on or before August 9, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OW–2019–xxxx, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments and accessing the docket and materials related to this proposed rule.
- *Email: weiss.lena@epa.gov.*
- *Mail:* Lena Weiss, U.S. Environmental Protection Agency, Region 4, Water Division, Oceans and Estuarine Management Section, 61 Forsyth Street, Atlanta, Georgia 30303.

*Instructions:* Direct your comments to Docket ID No. EPA–R04–OW–2019–xxxx. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* website is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

*Docket:* Publicly available docket materials are available either electronically at *www.regulations.gov* or in hard copy during normal business hours from the regional library at the EPA, Region 4 Library, 9th Floor, 61 Forsyth Street, Atlanta, Georgia 30303. For access to the documents at the Region 4 Library, contact the Region 4 Library Reference Desk at (404) 562–8190, between the hours of 9:00 a.m. to 12:00 p.m., and between the hours of 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays, for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Lena Weiss, U.S. Environmental Protection Agency, Region 4, Water Division, Oceans and Estuarine Management Section, 61 Forsyth Street, Atlanta, Georgia 30303; phone number (404) 562–9228; email: *weiss.lena@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Potentially Affected Persons

Persons potentially affected by this action include those who seek or might

seek permits or approval to dispose of dredged material into ocean waters pursuant to the MPRSA, 33 U.S.C. 1401 to 1445. The EPA's proposed action would be relevant to persons, including organizations and government bodies seeking to dispose of dredged material in ocean waters offshore of Mobile, Alabama. Currently, the U.S. Army Corps of Engineers (USACE) would be most affected by this action. Potentially affected categories and persons include:

| Category | Examples of potentially regulated persons |
|---|---|
| Federal government | USACE Civil Works projects, and other Federal agencies. |
| Industry and general public | Port authorities, marinas and harbors, shipyards and marine repair facilities, berth owners. |
| State, local and tribal governments | Governments owning and/or responsible for ports, harbors, and/or berths, Government agencies requiring disposal of dredged material associated with public works projects. |

This table is not intended to be exhaustive, but rather provides a guide for readers regarding persons likely to be affected by this action. For any questions regarding the applicability of this action to a particular person, please refer to the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

## II. Background

### *a. History of Disposal Sites Offshore of Mobile, Alabama*

There is currently one designated ODMDS off the coast of Mobile, Alabama. The existing Mobile ODMDS is located between two and six miles south of Dauphin Island in the Gulf of Mexico. It is currently 4.75 square nautical miles (nmi$^2$) in size. The Mobile ODMDS received interim site designation status in 1977 and final designation in 1987.

The USACE Mobile District and the EPA Region 4 have identified a need to either designate a new ODMDS or modify the existing Mobile ODMDS. The need for modifying current ocean disposal capacity is based on future capacity requirements, historical dredging volumes, estimates of dredging volumes for future proposed projects, and limited capacity of upland confined disposal facilities (CDFs) in the area.

EPA today is proposing to modify, or expand, the existing Mobile ODMDS rather than designate a new site off the coast of Mobile for ocean disposal of dredged material. The proposed modification of the existing Mobile ODMDS for dredged material does not mean that the USACE or the EPA has approved the use of the existing Mobile ODMDS or a modified Mobile ODMDS for open water disposal of dredged material from any specific project. Before any person can ocean dump dredged material at the existing Mobile ODMDS or a modified Mobile ODMDS, the EPA and the USACE must evaluate the project according to the ocean dumping regulatory criteria (40 CFR part 227) and USACE must authorize the disposal. The EPA independently evaluates proposed dumping and has the right to restrict and/or disapprove of the actual disposal of dredged material if the EPA determines that environmental requirements under the MPRSA have not been met. This action is supported by a Draft Environmental Assessment, which was provided for public notice and comment in September of 2018.

### *b. Location and Configuration of the Proposed Modified Mobile ODMDS*

This action proposes the modification of the existing Mobile ODMDS. The proposed modified ODMDS is in approximately 34 to 57 feet of water and is located between 2.0 and 6.0 nautical miles south of Dauphin Island, Alabama. The proposed modified ODMDS would expand the existing Mobile ODMDS from a size of approximately 4 nmi$^2$ to approximately 23.8 nmi$^2$ in size. The location of the proposed modified ODMDS is bounded by the coordinates listed below. The proposed coordinates for the site are in North American Datum 83 (NAD 83):

Proposed Modified Mobile ODMDS

(A) 30° 13.0′ N, 88° 08.8′ W
(B) 30° 09.6′ N, 88° 04.8′ W
(C) 30° 08.5′ N, 88° 05.8′ W
(D) 30° 08.5′ N, 88° 12.8′ W
(E) 30° 12.4′ N, 88° 12.8′ W

The proposed modification of the existing ODMDS will allow the EPA to adaptively manage the site to maximize its capacity, minimize the potential for mounding and associated safety concerns, and minimize the potential for any long-term adverse effects to the marine environment.

### *c. Management and Monitoring of the Site*

The proposed modified ODMDS is expected to receive dredged material from the federally authorized navigation project at Mobile Harbor, Alabama, and dredged material from other applicants who have obtained a permit for the disposal of dredged material at the proposed modified ODMDS. All persons using the site will be required to follow the Site Management and Monitoring Plan (SMMP) for the ODMDS that is specifically developed for the proposed modified ODMDS. A draft SMMP for the proposed modified ODMDS was been publicly reviewed and will be finalized by the EPA Region 4 and the USACE Mobile District prior to a final decision on this rule. The SMMP includes management and monitoring requirements to ensure that dredged materials disposed at the proposed modified ODMDS are suitable for disposal in the ocean and that adverse impacts of disposal, if any, are addressed to the maximum extent practicable. This includes provisions to avoid and minimize potential impacts to artificial reefs and cultural resources. The SMMP for the proposed modified ODMDS also addresses management of the site to ensure adverse mounding does not occur and ensures that disposal events minimize interference with other uses of ocean waters near the proposed modified ODMDS.

### *d. MPRSA Criteria*

In evaluating the proposed modified ODMDS, the EPA assessed the site according to the criteria of the MPRSA, with emphasis on the general and specific regulatory criteria of 40 CFR part 228, to determine whether the proposed site designation satisfies those criteria. The EPA's *Draft Environmental Assessment for Modification of the Ocean Dredged Material Disposal Site Mobile, Alabama, September 2018 (DEA),* provides an extensive evaluation of the criteria and other related factors for the modification of the existing ODMDS.

General Criteria (40 CFR 228.5)

(1) *Sites must be selected to minimize interference with other activities in the marine environment, particularly avoiding areas of existing fisheries or shellfisheries, and regions of heavy commercial or recreational navigation (40 CFR 228.5(a)).*

The location of the proposed modified ODMDS was screened in 1982 by the USACE as part of their evaluation of the area for selection of a location for ocean dumping of dredged material under Section 103 of MPRSA, as there was no

EPA designated ODMDS at the time. That evaluation included considerations of potential interference with other activities in the marine environment including avoiding areas of existing critical fisheries or shellfisheries, and regions of heavy commercial or recreational navigation. These evaluations were re-considered from 2002 through to the present time, as the proposed modified ODMDS continued to be assessed.

*(2) Sites must be situated such that temporary perturbations to water quality or other environmental conditions during initial mixing caused by disposal operations would be reduced to normal ambient levels or undetectable contaminant concentrations or effects before reaching any beach, shoreline, marine sanctuary, or known geographically limited fishery or shellfishery (40 CFR 228.5(b)).*

The proposed ODMDS modification area will be used for disposal of suitable dredged material as determined by Section 103 of the MPRSA. Based on the USACE and EPA sediment testing and evaluation of dredged maintenance material and proposed new work material, disposal is not expected to have any long-term impact on water quality. The existing Mobile ODMDS and proposed modified ODMDS are located sufficiently far from shore (two to six miles) and fisheries resources to allow temporary water quality disturbances caused by placement of dredged material to be reduced to ambient conditions before reaching any environmentally sensitive areas.

*(3) If at any time during or after disposal site evaluation studies, it is determined that existing disposal sites presently approved on an interim basis for ocean dumping do not meet the criteria for site selection set forth in Sections 228.5 through 228.6, the use of such sites will be terminated as soon as suitable alternate disposal sites can be designated (40 CFR 228.5 (c)).*

This criterion has been removed from the regulations and no longer applies.

*(4) The sizes of disposal sites will be limited in order to localize for identification and control any immediate adverse impacts, and to permit the implementation of effective monitoring and surveillance to prevent adverse long-range impacts. Size, configuration, and location are to be determined as part of the disposal site evaluation (40 CFR 228.5(d)).*

The location, size, and configuration of the proposed modified ODMDS provides long-term capacity, while also permitting effective site management, site monitoring, and limiting environmental impacts to the surrounding area to the greatest extent practicable.

Based on 25 years of projected new work and maintenance dredging, and permitted dredged material disposal needs, it is estimated that the proposed modified ODMDS should be approximately 24 $nmi^2$ in size to meet the anticipated long-term disposal needs of the area. This would provide the proposed modified ODMDS with an estimated capacity of approximately 260 million cubic yards, which is sufficient to manage risk, account for future unknown disposal operations from private entities, and provides a margin of navigation safety.

By adding approximately 19 $nmi^2$ to the existing Mobile ODMDS, the total area of the proposed modified Mobile ODMDS would be 23.8 $nmi^2$. An ODMDS of this size and capacity will provide a long-term ocean disposal option for the Mobile Bay area.

When determining the size of the proposed site, the ability to implement effective monitoring and surveillance programs was considered to ensure that the environment of the site could be protected, and that navigational safety would not be compromised by the mounding of dredged material, which could result in adverse wave conditions. A SMMP is being developed and will be implemented to determine if disposal at the site is significantly affecting adjacent areas and to detect the presence of adverse effects. At a minimum, the monitoring program will consist of bathymetric surveys, sediment grain size analysis, chemical analysis of constituents of concern in the sediments, and a health assessment of the benthic community.

*(5) EPA will, wherever feasible, designate ocean dumping sites beyond the edge of the continental shelf and other such sites where historical disposal has occurred (40 CFR 228.5(e)).*

Locating the disposal site near the continental shelf is not feasible and would be cost prohibitive. Transporting material to and performing long-term monitoring of a site located off the continental shelf is not economically or operationally feasible.

Specific Criteria (40 CFR 228.6)

*(1) Geographical Position, Depth of Water, Bottom Topography and Distance from Coast (40 CFR 228.6(a)(1)).*

The proposed modified ODMDS is in the Gulf of Mexico, between two and six miles offshore of Dauphin Island, Alabama. Water depths range from -34 to -57 feet (10.4 to 17.4 meters) with an overall average depth of -45 feet (13.7 meters). Sediments consist of sands to clays, with various mixtures of sand, silts, and clays. Most areas in the proposed modified ODMDS have a higher percentage of silt/clay than sand. There tends to be slightly more fine material in the northern portion of the site, and more fine sand on the southern portion of the proposed modified ODMDS. There is a shallower mound (approximately -18 feet MLLW) located in the southeastern portion of the site, where material has historically been placed for disposal. There are numerous oil and gas wells located throughout the proposed expansion area. The September 2018 DEA contains a map of the proposed ODMDS modification.

*(2) Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases (40 CFR 228.6(a)(2)).*

The proposed modified ODMDS has been selected to avoid the presence of any exclusive breeding, spawning, nursery, feeding, or passage areas for adult or juvenile phases of living resources.

*(3) Location in Relation to Beaches and Other Amenity Areas (40 CFR 228.6(a)(3)).*

The center of the proposed modified ODMDS is several miles from any beaches or amenity areas. No significant impacts to beaches or amenity areas associated with the existing Mobile ODMDS have been detected.

*(4) Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of Release, including Methods of Packing the Waste, if any (40 CFR 228.6(a)(4)).*

Only suitable dredged material that meets the EPA Ocean Dumping Criteria in 40 CFR 220–229 and receives a permit or is otherwise authorized for dumping by USACE will be disposed in the proposed modified ODMDS. Dredged materials dumped in this area will be primarily silts and clays with some sands that originate from the Federal Mobile Harbor navigation project. Average yearly disposal of dredged material into the proposed modified ODMDS is expected to be approximately 2.9 million cubic yards of maintenance and new work dredged material. Hopper dredge, barge, and scow combinations are the usual vehicles of transport for the dredged material, resulting in release of dredged material closer to the bottom of the site. None of the material is packaged in any manner.

Under section 103 of the MPRSA, USACE is the Federal agency that decides whether to issue a permit authorizing the ocean disposal of dredged materials. In the case of Federal navigation projects involving ocean

disposal of dredged materials, USACE is subject to MPRSA, but does not require a USACE permit. USACE relies on EPA's ocean dumping criteria when evaluating permit requests for (and implementing Federal projects involving) the transportation of dredged material for the purpose of dumping it into ocean waters. MPRSA permits and Federal projects involving ocean dumping of dredged material are subject to EPA review and concurrence. EPA may concur with or without conditions or decline to concur on the permit, *i.e.* non-concur. If EPA concurs with conditions, the final permit must include those conditions. If EPA declines to concur (non-concurs) on an ocean dumping permit for dredged material, the USACE cannot issue the permit.

*(5) Feasibility of Surveillance and Monitoring (40 CFR 228.6(a)(5)).*

The EPA expects monitoring and surveillance at the proposed modified ODMDS to be feasible and readily performed from ocean or regional class research vessels. The entire area of the proposed modified ODMDS has been surveyed and sampled in 2009 and 2017. The EPA will monitor the site for physical, biological and chemical attributes as well as for potential impacts. Bathymetric surveys will be conducted routinely, and benthic infauna and epibenthic organisms will be monitored, as described in the SMMP for the site.

*(6) Dispersal, Horizontal Transport and Vertical Mixing Characteristics of the Area, including Prevailing Current Direction and Velocity, if any (40 CFR 228.6(a)(6)).*

Current velocities are greatest at the water's surface due to wind and wave action. Intermediate and bottom layer currents are driven by thermohaline and tidal circulations. Currents measured at gauge stations surrounding the ODMDS are predominantly to the west or southwest on the order of 10–30 centimeters per second (cm/s).

*(7) Existence and Effects of Current and Previous Discharges and Dumping in the Area (Including Cumulative Effects) (40 CFR 228.6(a)(7)).*

Previous disposal of dredged material in the existing Mobile ODMDS has resulted in temporary increases in suspended sediment concentrations during disposal operations, localized mounding within the site, burial of benthic organisms within the site, slight changes in the abundance and composition of benthic assemblages, and changes in the sediment composition from sandy sediments to finer-grained silts. Short-term, long-term, and cumulative effects of dredged material disposal in the proposed modified ODMDS would be similar to those for the existing Mobile ODMDS.

*(8) Interference with Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance and Other Legitimate Uses of the Ocean (40 CFR 228.6(a)(8)).*

There will be minor, short-term interferences with commercial and recreational boat traffic during the transport of dredged material to the proposed modified ODMDS. There are several oil and gas extraction platforms in both the proposed and existing Mobile ODMDS. The site has not been identified as an area of special scientific importance. There are no aquaculture areas near the site. There may be recreational fishing in the area. The likelihood of direct interference with these activities is low, provided there is close communication and coordination among users of the ocean resources. There is one artificial reef site located approximately a quarter mile south of the proposed modified ODMDS. The SMMP for the proposed modified ODMDS contains provisions for corrective measures if impacts to the artificial reef related to dredged material disposal are identified. Additionally, modification of the ODMDS will allow for disposal to occur farther away from the artificial reef than the currently-sized site allows.

*(9) The Existing Water Quality and Ecology of the Sites as Determined by Available Data or Trend Assessment of Baseline Surveys (40 CFR 228.6(a)(9)).*

Water quality of the existing site is typical of the Gulf of Mexico. Water and sediment quality analyses conducted in the vicinity of the proposed modified ODMDS and experience with past disposals in the existing Mobile ODMDS have not identified any adverse water quality impacts from ocean disposal of dredged material. The site supports benthic and epibenthic fauna characteristic of the shallow Gulf of Mexico and are widespread off of the Gulf coast.

*(10) Potentiality for the Development or Recruitment of Nuisance Species in the Disposal Site (40 CFR 228.6(a) (10)).*

Nuisance species, considered as any undesirable organism not previously existing at a location, have not been observed at, or in the vicinity of, the proposed modified ODMDS. Disposal of dredged material, as well as monitoring, has been ongoing for the past 40 to 50 years. Nuisance species have not been found. The dredged material to be disposed of at the ODMDS is expected to be from similar locations to those dredged previously, therefore it expected that any benthic organisms transported to the site would be relatively similar in nature to those already there.

*(11) Existence at or in Close Proximity to the Site of any Significant Natural or Cultural Feature of Historical Importance (40 CFR 228.6(a) (11)).*

A maritime investigation of this site was conducted in 1982 to identify areas of high and low probability of submerged resources. Past efforts showed the presence of magnetic anomalies that may be indicative of potential resources. Until further analysis is conducted, these anomalies should be avoided in the proposed modified Mobile ODMDS.

The SMMP for the ODMDS contains measures to ensure that resources identified in up-to-date maritime investigations are avoided and are not adversely affected by dredged material disposal.

## III. Environmental Statutory Review—National Environmental Policy Act of 1969, as Amended (NEPA); Magnuson-Stevens Fisheries Conservation and Management Act (MSA); Marine Mammal Protection Act (MMPA); Coastal Zone Management Act (CZMA); Endangered Species Act, as Amended (ESA); National Historic Preservation Act, as Amended (NHPA)

*a. NEPA*

The EPA's primary voluntary NEPA document for expanding the existing Mobile ODMDS is the *Draft Environmental Assessment for Modification of the Mobile ODMDS, Mobile, Alabama, September 2018* (DEA), prepared by the EPA in cooperation with the USACE. Anyone desiring a copy of the DEA may obtain one from the addresses given above. This document was released for public review and comment on September 26, 2018. The public comment period on the Draft Environmental Assessment (DEA) closed on October 29, 2018.

The EPA received four comment letters on the DEA. There were three main concerns expressed in those letters: (1) Potential movement of disposed material impacting nearby artificial reefs; (2) consideration of impacts to the giant manta ray, a newly listed threatened species; and (3) the age of the existing cultural resource surveys. No objections to the proposed modification of the Mobile ODMDS were received. The EPA and USACE responded to all comments and they will be provided in the Final Environmental Assessment (FEA) for this proposed action. The DEA and its Appendices provide the threshold

environmental review for modification of the ODMDS. The information from the DEA is used above, in the discussion of the ocean dumping criteria, and can be provided upon written request, using the contact information provided in this document.

The proposed action discussed in the DEA is the permanent designation of a modified ODMDS offshore Mobile, Alabama. The purpose of the proposed action is to provide an environmentally acceptable option for the ocean disposal of dredged material. The need for the proposed modified ODMDS is based on a demonstrated USACE need for ocean disposal of dredged material from the Mobile Harbor Federal Navigation Project, including the potential for deepening and widening portions of the Project. The need for ocean disposal for these and other projects, and the suitability of the material for ocean disposal, will be determined on a case-by-case basis as part of the USACE process for reviewing ocean disposal for private/Federal actions and a public review process for its own actions to ocean dump dredged material from Federal Projects. These permit/authorization evaluations will include evaluation of disposal alternatives.

The DEA discusses the need for the proposed modified ODMDS and examines ocean disposal site alternatives to the proposed actions. The need for expanding the existing Mobile ODMDS is based on future capacity modeling, historical dredging volumes, estimated dredging volumes for proposed projects, and limited capacity of upland disposal facilities in the area.

The following ocean disposal alternatives were considered in the DEA:

*No Action Alternative.*

The No Action Alternative is defined as not modifying the size of the existing Mobile ODMDS. Implementation of this alternative would not address the need for an adequately sized ocean dumpsite to accommodate Federal channel dredging projections, and/or any future private needs for ocean disposal. The existing Mobile ODMDS is too small and only provides disposal capacity for up to five years. It is not large enough to meet the existing and projected disposal needs for proposed Federal new work and O&M projects. As a result, the No Action Alternative does not meet the proposed action's purpose and need. However, it was evaluated in the DEA as a basis to compare the effects of the other alternatives considered.

*Alternative 2: Modification of the existing Mobile ODMDS to encompass a larger area capable of meeting the capacity needs of the next 25 years (Preferred Alternative).*

Modification of the existing Mobile ODMDS to encompass a larger area capable of meeting the capacity needs of the next 25 years (approximately 25 $nmi^2$) is the preferred alternative and considered the most viable option. A detailed justification for this preferred alternative is included in *Section 1.3 Purpose and Need for the Proposed Action* in the DEA. The existing Mobile ODMDS is relatively small and has a limited capacity of approximately five years if continued use occurs. Modifying the existing Mobile ODMDS to increase capacity for the next 25 years would sustain the disposal needs for the federally authorized Mobile Harbor navigation project (including proposed deepening and widening), along with providing a disposal option for private interests. It is the most economic and environmentally feasible option.

*Alternative 3: Modification of the existing Mobile ODMDS to encompass a much larger area capable of meeting the capacity needs of the next 50 years (approximately 46 $nmi^2$).*

Modification of the existing Mobile ODMDS to encompass a much larger area capable of meeting the capacity needs of the next 50 years was considered as the originally preferable alternative for this proposed modification. As such, the May 2010 *Final Report: Mobile ODMDS Designation Study, Mobile AL* was conducted based upon this larger site. Although designating the larger area as a modified ODMDS would provide more than adequate site capacity, the overly large-sized ODMDS would far exceed the actual projected need for a 25-year project life. With the projections set forth in *Section 1.3 Purpose and Need for the Proposed Action* of the DEA, a site more adequately sized was selected as the preferred alternative (Alternative 2).

*Alternative 4: Designation of a new site further from the areas where the Federal navigational dredging will occur.*

This alternative would involve designation of a new site further south (away from shore) than the existing Mobile ODMDS. This new site (referred to as the Mobile-South site) was previously considered by the USACE in the mid-1980s under section 103 of the MPRSA. Under section 103 of the MPRSA, the USACE, in consultation with EPA, can select an ''alternative'' site for dredged material disposal for short-term use in the cases where it is not feasible to use a designated ocean disposal site. EPA must concur on use of ''alternative'' ocean sites selected by USACE for the disposal of dredged material. Disposal at a USACE-selected ''alternative'' site shall be limited to a period not greater than five years unless the site is subsequently designated by EPA pursuant to section 102 of the MPRSA. This site was never used for the disposal of dredged material. Primary concerns with the use of the Mobile South site in the 1980s were safety, logistics, and additional cost. These concerns still exist today. The sailing path for a hopper or scow from Mobile Harbor to the Mobile-South site would require traversing through two different Safety Fairways, one in a parallel direction and the other at a perpendicular angle to the Federal channel. Due to large vessel passing restrictions in the Mobile Ship Channel, typically there are at least 12 deep draft ships holding position in the Safety Fairway awaiting their turn to enter Mobile Harbor. Using the Mobile-South site would require constant coordination and logistical planning given the high volume of daily loads going out to the site, in addition to the added safety concerns when towing scows on long lines in rough seas through numerous anchored deep draft vessels.

The additional sail time added using the Mobile South site is estimated to be approximately 25% to 30% greater, which, under the current method of rental contracts, represents $2,000,000 to $2,500,000 per contract (or $4,000,000 to $5,000,000 annually). Therefore, designation of a new site farther from shore was not proposed as a preferred alternative.

*b. MSA*

The USACE, in conjunction with EPA, submitted an essential fish habitat (EFH) assessment, pursuant to Section 305(b), 16 U.S.C. 1855(b)(2), of the Magnuson-Stevens Act, as amended (MSA), 16 U.S.C. 1801 to 1891d, to the National Marine Fisheries Service (NMFS) on December 19, 2002. The original assessment considered the entire Mobile-North (46 $nmi^2$) site. The USACE determined that the modification of the existing Mobile ODMDS will not significantly affect managed species or EFH. In a letter dated January 17, 2003, NMFS responded that no EFH conservation recommendations were required for the proposed action. In an email dated March 17, 2016, USACE contacted NMFS, inquiring if the current proposed project (approximately 24 $nmi^2$ ODMDS) was still consistent with the initial consultation. NMFS responded that they believed that no further consultation for the project was

required. The EPA notified NMFS of the publication of the DEA by letter on September 25, 2018 and received no further communication regarding the proposed action.

*c. CZMA*

Pursuant to an Office of Water policy memorandum dated October 23, 1989, the EPA has evaluated the proposed site designations for consistency with the State of Alabama's (the State) approved coastal zone management program. On behalf of the EPA, the USACE, Mobile District determined that the proposed action is consistent with the Alabama Coastal Management Program to the maximum extent practicable. Alabama Department of Environmental Management (ADEM) issued Coastal Zone Consistency for the Mobile Harbor Federal Navigation Project on March 9, 2017, which included the modification of the existing Mobile ODMDS. The EPA notified the ADEM of the publication of the DEA by public notice and by letter on September 25, 2018 and received no further communication regarding the proposed action.

*d. ESA*

The ESA, as amended, 16 U.S.C. 1531 to 1544, requires Federal agencies to consult with NMFS and the U.S. Fish and Wildlife Service (USFWS) to ensure that any action authorized, funded, or carried out by the Federal agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of any critical habitat. The EPA assessed the potential effects of modifying the Mobile ODMDS on aquatic and wildlife species and submitted the DEA to the NMFS and USFWS on September 25, 2018. The EPA concluded that the proposed project would not adversely affect any threatened or endangered species, nor would it adversely modify any designated critical habitat. In a letter dated October 8, 2018, the USFWS concurred with the EPA's determination that the proposed action is not likely to adversely affect listed endangered or threatened species under the jurisdiction of the USFWS. In an email dated November 26, 2018, NMFS informed the EPA that a consultation for the giant manta ray (*Manta birostris*) was needed. The EPA concluded that the proposed action may affect but was not likely to adversely affect the species, added that evaluation and determination to the EA, and is working with NMFS to finalize the consultation. Consultation with NMFS will be completed prior to final rule-making or any final NEPA decision.

*e. NHPA*

The USACE and the EPA initiated consultation with the State of Alabama's Historic Preservation Officer (SHPO) on September 25, 2018 to address the NHPA, 16 U.S.C. 470 to 470a–2, which requires Federal agencies to consider the effect of their actions on districts, sites, buildings, structures, or objects, included in, or eligible for inclusion in the National Register of Historic Places (NRHP). In a letter dated October 13, 2018, the Alabama Historical Commission (AHC) recommended more up to date maritime surveys in the proposed action area. The EPA added additional management provisions intended to be protective of potential cultural resources into the EA and SMMP, including phased use of the proposed ODMDS to avoid areas previously unimpacted by dredged material disposal, and is working with the AHC to finalize NHPA consultation. Any requirements to protect cultural resources will be concluded based upon additional consultation with the SHPO and will be incorporated into project commitments prior to final rulemaking or any final NEPA decision.

## IV. Statutory and Executive Order Reviews

This rule proposes to modify the Mobile ODMDS pursuant to Section 102 of the MPRSA. This proposed action complies with applicable executive orders and statutory provisions as follows:

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

This proposed action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

*b. Paperwork Reduction Act*

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). This proposed site designation, does not require persons to obtain, maintain, retain, report, or publicly disclose information to or for a Federal agency.

*c. Regulatory Flexibility*

The Regulatory Flexibility Act (RFA) generally requires Federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business defined by the Small Business Administration's size regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. The EPA determined that this proposed action will not have a significant economic impact on small entities because the proposed rule will only have the effect of regulating the location of site to be used for the disposal of dredged material in ocean waters. After considering the economic impacts of this proposed rule, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

*d. Unfunded Mandates Reform Act*

This proposed action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1531 to 1538, for State, local, or tribal governments or the private sector. This action imposes no new enforceable duty on any State, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA. This action is also not subject to the requirements of section 203 of the UMRA because it contains no regulatory requirements that might significantly or uniquely affect small government entities. Those entities are already subject to existing permitting requirements for the disposal of dredged material in ocean waters.

*e. Executive Order 13132: Federalism*

This proposed action does not have federalism implications. It 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 various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this action. In the spirit of Executive Order 13132, and consistent with the EPA policy to

promote communications between the EPA and State and local governments, the EPA specifically solicited comments on this proposed action from State and local officials.

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

This proposed action does not have tribal implications, as specified in Executive Order 13175 because the modification of the existing Mobile ODMDS will not have a direct effect on 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. Thus, Executive Order 13175 does not apply to this action. The EPA specifically solicits additional comments on this proposed action from tribal officials.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under Section 5–501 of the Executive Order has the potential to influence the regulation. This proposed action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. The proposed action concerns the modification of the existing Mobile ODMDS and only has the effect of providing a designated location for ocean disposal of dredged material pursuant to Section 102 (c) of the MPRSA. However, the EPA welcomes comments on this proposed action related to this Executive Order.

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

This proposed action is not subject to Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355) because it is not a ''significant regulatory action'' as defined under Executive Order 12866. However, we welcome comments on this proposed action related to this Executive Order.

*i. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs the EPA to provide Congress, through Office of Management and Budget, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This proposed action includes environmental monitoring and measurement as described in the EPA's proposed SMMP. The EPA will not require the use of specific, prescribed analytic methods for monitoring and managing the proposed modified ODMDS. The Agency plans to allow the use of any method, whether it constitutes a voluntary consensus standard or not, that meets the monitoring and measurement criteria discussed in the SMMP. The EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this proposed action.

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

Executive Order 12898 (59 FR 7629) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. The EPA determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The EPA has assessed the overall protectiveness of modifying the existing Mobile ODMDS against the criteria established pursuant to the MPRSA to ensure that any adverse impact to the environment will be mitigated to the greatest extent practicable. The EPA welcomes comments on this proposed action related to this Executive Order.

**List of Subjects in 40 CFR Part 228**

Environmental protection, Water pollution control.

**Authority:** This action is issued under the authority of Section 102 of the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. 1401, 1411, 1412.

Dated: June 7, 2019.

**Mary S. Walker,**

*Regional Administrator, Region 4.*

For the reasons set out in the preamble, The EPA proposes to amend chapter I, title 40 of the Code of **Federal Register** as follows:

## PART 228—CRITERIA FOR THE MANAGEMENT OF DISPOSAL SITES FOR OCEAN DUMPING

■ 1. The authority citation for part 228 continues to read as follows:

**Authority:** 33 U.S.C. 1412 and 1418.

■ 2. Section 228.15 is amended by revising paragraphs (h)(14) (i) through (iii) and (vi) to read as follows:

### § 228.15 Dumping sites designated on a final basis.

* * * * *

(h) * * *

(14) * * *

(i) *Location:* Corner Coordinates (NAD 1983) 30°13.0′ N, 88°08.8′ W; 30°09.6′ N, 88°04.8′ W; 30°08.5′ N, 88°05.8′ W; 30°08.5′ N, 88°12.8′ W; 30°12.4′ N, 88°12.8′ W.

(ii) *Size:* Approximately 23.8 square nautical miles in size.

(iii) *Depth:* Ranges from approximately 34 to 57 feet (10.4 to 17.4 meters).

* * * * *

(vi) *Restrictions:* (A) Disposal shall be limited to dredged material from the Mobile, Alabama area;

(B) Disposal shall be limited to dredged material determined to be suitable for ocean disposal according to 40 CFR 220–228;

(C) Disposal shall be managed by the restrictions and requirements contained in the currently-approved Site Management and Monitoring Plan (SMMP);

(D) Monitoring, as specified in the currently-approved SMMP, is required.

* * * * *

[FR Doc. 2019–13396 Filed 6–24–19; 8:45 am]

BILLING CODE 6560–50–P

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 21**

**[Docket No. FWS–HQ–MB–2018–0080; FF09M21200–190–FXMB1231099BPP0]**

**RIN 1018–BD74**

## Migratory Bird Permits; Regulations for Managing Resident Canada Goose Populations

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

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), propose to amend the depredation order that allows take of resident Canada geese at agricultural facilities by authorized personnel between May 1 and August 31. This time period is too restrictive in portions of the Atlantic Flyway where specific crops are now being planted and depredated prior to May 1. Under this proposal, we would allow take of resident Canada geese at agricultural facilities in the Atlantic Flyway States of Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia between April 1 and August 31.

**DATES:** Comments on this proposed rule must be received by August 26, 2019.

**ADDRESSES:** *Document availability:* You may obtain copies of the related environmental assessment at *http://www.regulations.gov* in Docket No. FWS–HQ–MB–2018–0080.

*Comment submission:* You may submit comments by either one of the following methods. Please do not submit comments by both.

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments to Docket No. FWS–HQ–MB–2018–0080.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–HQ–MB–2018–0080; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; MS: BPHC; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

We will not accept email or faxes. We will post all comments on *http://www.regulations.gov,* including any personal information you provide. See Public Comments, below, for more information.

**FOR FURTHER INFORMATION CONTACT:** Paul I. Padding, Atlantic Flyway Representative, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 11510 American Holly Drive, Laurel, MD 20708; (301) 497–5851.

**SUPPLEMENTARY INFORMATION:**

### Authority and Responsibility

Migratory birds are protected under four bilateral migratory bird treaties that the United States entered into with Great Britain (for Canada in 1916, as amended in 1999), the United Mexican States (1936, as amended in 1972 and 1999), Japan (1972, as amended in 1974), and the Soviet Union (1978). Regulations allowing the take of migratory birds are authorized by the Migratory Bird Treaty Act (Act; 16 U.S.C. 703 – 712), which implements the above-mentioned treaties. The Act provides that, subject to and to carry out the purposes of the treaties, the Secretary of the Interior is authorized and directed to determine when, to what extent, and by what means allowing hunting, killing, and other forms of taking of migratory birds, their nests, and eggs is compatible with the conventions. The Act requires the Secretary to implement a determination by adopting regulations permitting and governing those activities.

Canada geese are federally protected by the Act because they are listed as migratory birds in all four treaties. Because Canada geese are covered by all four treaties, regulations must meet the requirements of the most restrictive of the four. For Canada geese, this is the treaty with Canada. All regulations concerning resident Canada geese are compatible with its terms, with particular reference to Articles II, V, and VII.

Each treaty not only permits sport hunting, but permits the take of migratory birds for other reasons, including scientific, educational, propagative, or other specific purposes consistent with the conservation principles of the various Conventions. More specifically, Article VII, Article II (paragraph 3), and Article V of ''The Protocol Between the Government of the United States of America and the Government of Canada Amending the 1916 Convention between the United Kingdom and the United States of America for the Protection of Migratory Birds in Canada and the United States'' provides specific limitations on allowing the take of migratory birds for reasons other than sport hunting. Article VII authorizes permitting the take, killing, etc., of migratory birds that, under extraordinary conditions, become seriously injurious to agricultural or other interests. Article V relates to the taking of nests and eggs, and Article II, paragraph 3, states that, in order to ensure the long-term conservation of migratory birds, migratory bird populations shall be managed in accord with listed conservation principles.

The other treaties are less restrictive. The treaties with both Japan (Article III, paragraph 1, subparagraph (b)) and the Soviet Union (Article II, paragraph 1, subparagraph (d)) provide specific exceptions to migratory bird take prohibitions for the purpose of protecting persons and property. The treaty with Mexico requires, with regard to migratory game birds, only that there be a ''closed season'' on hunting and that hunting be limited to 4 months in each year.

Regulations governing the issuance of permits to take, capture, kill, possess, and transport migratory birds are promulgated at title 50 of the Code of Federal Regulations (CFR), parts 13, 21, and 22, and are issued by the Service. The Service annually promulgates regulations governing the take, possession, and transportation of migratory game birds under sport hunting seasons at 50 CFR part 20. Regulations regarding all other take of migratory birds (except for eagles) are published at 50 CFR part 21, and typically are not changed annually.

### Background

In November 2005, the Service published a final environmental impact statement (FEIS) on management of resident Canada geese that documented resident Canada goose population levels ''that are increasingly coming into conflict with people and causing personal and public property damage'' (see the FEIS' notice of availability at 70 FR 69985; November 18, 2005).

On August 10, 2006, we published in the **Federal Register** (71 FR 45964) a final rule establishing regulations at 50 CFR parts 20 and 21 authorizing State wildlife agencies, private landowners, and airports to conduct (or allow) indirect and/or direct population control management activities to reduce, manage, and control resident Canada goose populations in the continental United States and to reduce related damages. Those activities include a depredation order that allows take of resident Canada geese at agricultural facilities by authorized personnel between May 1 and August 31, and the destruction of resident Canada goose nests and eggs between March 1 and June 30, at 50 CFR 21.51.

On June 20, 2019, we published in the **Federal Register** (84 FR 28769) a final rule to amend our Canada goose depredation and control orders,

including the depredation order at 50 CFR 21.51, to allow destruction of resident Canada goose nests and eggs at any time of year.

**This Proposed Rule**

The time periods set forth at 50 CFR 21.51(d)(4) for take of resident Canada geese at agricultural facilities are too restrictive in portions of the Atlantic Flyway where specific crops are now being planted and depredated prior to May 1. This proposed rule would amend the depredation order at 50 CFR 21.51 to allow authorized personnel to take resident Canada geese at agricultural facilities in the Atlantic Flyway States of Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia between April 1 and August 31, thereby enabling agricultural producers to protect crops planted in early spring from depredation by resident Canada geese.

**Environmental Assessment**

We prepared an environmental assessment (EA) that is tiered to the 2005 FEIS, specifically to the actions pertaining to control of resident Canada geese at agricultural facilities that were proposed under Alternative E (Control and Depredation Order Management; pages II–12–13). Those actions were subsequently implemented through the depredation order at 50 CFR 21.51, under Alternative F (Integrated Damage Management and Population Control; pages II–13–15). The EA analyzed three alternative courses of action to address crop depredation by resident Canada geese in Atlantic Flyway States in April:

(1) Maintain the current date restrictions on the take of geese as specified in regulations at 50 CFR 21.51(d)(4) (No action);

(2) Expand the time period during which Canada geese may be taken under 50 CFR 21.51(d)(4) to April 1 through August 31, in the Atlantic Flyway States of Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, and West Virginia; and

(3) Expand the time period during which Canada geese may be taken under 50 CFR 21.51(d)(4) to April 1 through August 31, in the Atlantic Flyway States of Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia (Proposed action).

The full EA can be found on our website at *http://www.fws.gov/birds* or at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2018–0080.

**Public Comments**

You may submit your comments and supporting materials by one of the methods listed in **ADDRESSES**. We will not consider comments sent by email or fax, or written comments sent to an address other than the one listed in **ADDRESSES**. Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, are available for public inspection at *http://www.regulations.gov*. We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov*. You may request at the top of your document that we withhold personal information such as your street address, phone number, or email address from public review; however, we cannot guarantee that we will be able to do so.

**Required Determinations**

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

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

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

*Regulatory Flexibility Act*

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121)), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small businesses, small organizations, and small government jurisdictions. However, no regulatory flexibility analysis is required if the head of an agency certifies the rule would not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for ''significant impact'' and a threshold for a ''substantial number of small entities.'' See 5 U.S.C. 605(b).

The economic impacts of this proposed rule would primarily affect agricultural producers, but the impacts would be beneficial to those entities because their crops would be afforded better protection. Data are not available to estimate the exact number of agricultural facilities that would benefit from this proposed rule, but it is unlikely to be a substantial number at the Atlantic Flyway-wide scale. Therefore, we certify that, if adopted as proposed, this rule will not have a significant economic impact on a substantial number of small entities.

*Small Business Regulatory Enforcement Fairness Act*

This proposed rule is not a major rule under SBREFA (5 U.S.C. 804(2)). It would not have a significant impact on a substantial number of small entities.

This rule would not have an annual effect on the economy of $100 million or more. This rule would not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. Finally, this rule would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the abilities of U.S.-based enterprises to compete with foreign-based enterprises.

*Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs*

This proposed rule is expected to be an Executive Order (E.O.) 13771 (82 FR 9339, February 3, 2017) deregulatory action because it would relieve a restriction in 50 CFR part 21.

*Unfunded Mandates Reform Act*

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

a. This proposed rule would not ''significantly or uniquely'' affect small government activities. A small government agency plan is not required.

b. This proposed rule would not produce a Federal mandate on local or State government or private entities. Therefore, this action is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

*Takings*

In accordance with E.O. 12630, this proposed rule does not contain a provision for taking of private property, and would not have significant takings implications. A takings implication assessment is not required.

*Federalism*

This proposed rule would not interfere with the States' abilities to manage themselves or their funds. We do not expect any economic impacts to result from this proposed revision to the regulations. This rule would not have sufficient Federalism effects to warrant preparation of a federalism summary impact statement under E.O. 13132.

*Civil Justice Reform*

In accordance with E.O. 12988, the Office of the Solicitor has determined that the proposed rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

*Paperwork Reduction Act*

This proposed rule does not contain new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). OMB has approved the information collection requirements associated with the control and management of resident Canada geese at 50 CFR part 20 and 50 CFR part 21, and assigned OMB Control Number 1018–0133 (expires May 31, 2019, and in accordance with 5 CFR 1320.10, an agency may continue to conduct or sponsor this collection of information while the submission is pending at OMB). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*National Environmental Policy Act*

We have analyzed this proposed rule in accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) and U.S. Department of the Interior regulations at 43 CFR part 46. We have completed an environmental assessment of the proposed amendment of the depredation order that would allow take of resident Canada geese at agricultural facilities in Atlantic Flyway States from April 1 through August 31; that environmental assessment is included in the docket for this proposed rule. We conclude that our proposed action would have the impacts listed below under *Environmental Consequences of the Action.* The docket for this proposed rule is available at *http://www.regulations.gov* under Docket No. FWS–HQ–MB–2018–0080.

*Environmental Consequences of the Action*

The expected additional take of resident Canada geese would have minimal impact to the overall population status of resident Canada geese in any participating State or the Atlantic Flyway as a whole. Based on the current average annual take (in the listed States) of 2,233 Canada geese under 50 CFR 21.51, we expect an additional 558 Canada geese to be taken during the month of April in participating States. This is based on an assumed average of a similar number of geese taken each month. There is the potential for take of migrant Canada geese in more northern areas of the flyway. Assuming that 50 percent of the expected additional take in April are migrants, the take of migrant Canada geese under this alternative would be 279 geese. Population-level impacts to any individual population of migrant geese would be minimal.

*Socioeconomic.* This proposed action is expected to have a net positive impact on the socioeconomic environment by reducing crop depredation at localized agricultural sites. Individual agricultural producers in participating States will be afforded some additional relief from injurious Canada geese.

*Endangered and threatened species.* The proposed rule would not affect endangered or threatened species or critical habitats.

*Compliance With Endangered Species Act Requirements*

Section 7 of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), requires that ''The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (16 U.S.C. 1536(a)(1)). It further states that ''[e]ach Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat'' (16 U.S.C. 1536(a)(2)). The proposed rule would not affect endangered or threatened species or critical habitats.

*Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2, we have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects. This proposed rule would not interfere with the tribes' abilities to manage themselves or their funds or to regulate migratory bird activities on tribal lands.

*Clarity of This Proposed Rule*

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

*Energy Supply, Distribution, or Use (E.O. 13211)*

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule is not a significant regulatory action under E.O. 13211, and would not significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action. No Statement of Energy Effects is required.

**List of Subjects in 50 CFR part 21**

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

**Proposed Regulation Promulgation**

For the reasons stated in the preamble, we hereby propose to amend part 21, of subchapter B, chapter I, title 50 of the Code of Federal Regulations, as set forth below:

## PART 21—MIGRATORY BIRD PERMITS

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

**Authority:** 16 U.S.C. 703–712.

■ 2. Amend § 21.51 by revising paragraph (d)(4) to read as follows:

**§ 21.51 Depredation order for resident Canada geese at agricultural facilities.**

* * * * *

(d) * * *

(4) Under this section, authorized agricultural producers and their employees and agents may:

(i) Conduct management and control activities, involving the take of resident Canada geese, as follows:

| Where | When |
|---|---|
| (A) In the Atlantic Flyway States of Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia. | Between April 1 and August 31. |
| (B) In the Mississippi and Central Flyway portions of these States: Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming. | Between May 1 and August 31. |

(ii) Destroy the nests and eggs of resident Canada geese at any time of year.

* * * * *

Dated: June 13, 2019.

**Karen Budd-Falen,**

*Deputy Solicitor for Parks and Wildlife, exercising the authority of the Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2019–13485 Filed 6–24–19; 8:45 am]

BILLING CODE 4333–15–P

# Notices

Federal Register

Vol. 84, No. 122

Tuesday, June 25, 2019

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

**[Doc No. AMS–FGIS–19–0027]**

### Opportunity for Designation in the South Carolina Area

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

**ACTION:** Notice.

**SUMMARY:** The interim designation of the South Carolina Department of Agriculture will end on September 30, 2019. We are asking persons or governmental agencies interested in providing official services in the areas presently served by this agency to submit an application for designation. The realignment of offices within the U.S. Department of Agriculture authorized by the Secretary's Memorandum dated November 14, 2017, eliminates the Grain Inspection, Packers and Stockyards Administration (GIPSA) as a standalone agency. The grain inspection activities formerly part of GIPSA are now organized under the Agricultural Marketing Service.

**DATES:** Applications must be received by July 25, 2019.

**ADDRESSES:** Submit applications concerning this Notice using any of the following methods:

- *Applying for Designation on the Internet:* Use FGISonline (*https://fgis.gipsa.usda.gov/default_home_FGIS.aspx*) and then click on the Delegations/Designations and Export Registrations (DDR) link. You will need to obtain an FGISonline customer number and USDA eAuthentication username and password prior to applying.
- *Mail, Courier or Hand Delivery:* Jacob Thein, Compliance Officer, USDA, AMS, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153.
- *Email: FGISQACD@ams.usda.gov.*

*Read Applications:* All applications will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

**FOR FURTHER INFORMATION CONTACT:** Jacob Thein, 816–866–2223 or *FGISQACD@ams.usda.gov.*

**SUPPLEMENTARY INFORMATION:** Section 7(f) of the United States Grain Standards Act (USGSA) authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)). Under section 7(g) of the USGSA (7 U.S.C. 79(g)), designations of official agencies are effective for no longer than five years, unless terminated by the Secretary, and may be renewed according to the criteria and procedures prescribed in section 7(f) of the USGSA.

**Area Open for Designation**

*State of South Carolina*

Pursuant to Section 7(f)(2) of the USGSA, the following geographic area in the State of South Carolina is assigned to the South Carolina Department of Agriculture: In South Carolina.

The entire State, except those export port locations within the State, which are serviced by the South Carolina Department of Agriculture.

**Opportunity for Designation**

Interested persons or governmental agencies may apply for designation to provide official services in the geographic area specified above under the provisions of section 7(f) of the USGSA and 7 CFR 800.196. Designation in the specified geographic area in South Carolina is for the period beginning October 1, 2019, to September 30, 2024. To apply for designation or to request more information, contact Jacob Thein at the address listed above.

**Authority:** 7 U.S.C. 71–87k.

Dated: June 20, 2019.

**Erin Morris,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2019–13451 Filed 6–24–19; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

June 20, 2019.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: (1) 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; (2) the accuracy of the agency's estimate of burden 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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725—17th Street NW, Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by July 25, 2019. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

**National Agricultural Statistics Service (NASS)**

*Title:* Agricultural Resource Management and Chemical Use Surveys—Substantive Change.

*OMB Control Number:* 0535–0218.

*Summary of Collection:* General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204 which specifies that ''The Secretary of Agriculture shall procure and preserve all information concerning agriculture which he can obtain . . . by the collection of statistics . . .''. The primary objective of the National Agricultural Statistics Service (NASS) is to provide data users with timely and reliable agricultural production and economic statistics, as well as environmental and specialty agricultural related statistics. To accomplish this objective, NASS relies on the use of diverse surveys that show changes within the farming industry over time.

Using the Agricultural Resource Management Survey (ARMS) and the Fruit Chemical Use Survey, NASS collects environmental data which includes cropping practices, fertilizer applications, pesticide usage for weeds, insects, fungus, mold, etc., and the use of various pest management practices. NASS has entered into a cooperative agreement with the Office of Pest Management Policy to collect additional information for the 2019 crop production year. Additional questions have been added to the Pest Management Practices sections of each of these questionnaires. The surveys that will be targeted for 2019 are the Production Practices Report (spring wheat, winter wheat and durum wheat), the Production Practices and Costs Report (barley, cotton, and sorghum), and the Fruit Chemical Use Survey.

The additional questions will expand the scope of the pest management practices. NASS conducted cognitive interviews with farmers to streamline the questions in order to keep additional respondent burden to a minimum.

This substantive change resulted in an overall reduction in sample size by 3,600 but the additional questions added, on average about 10 minutes to each questionnaire. The new sample size for this group of surveys is 15,600 respondents with a net increase in respondent burden of 159 hours above the currently approved total.

*Need and Use of the Information:* The OPMP was created by the Agricultural Research, Extension, and Education Reform Act of 1998 in response to grower concerns about the implementation of the Food Quality Protection Act of 1996 (FQPA). By 1998 statute, and as reauthorized in the Agricultural Act of 2014 (Pub. L. 113–79), OPMP ''shall be responsible for

- The development and coordination of Department policy on pest management and pesticides;
- the coordination of activities and services of the Department, including research, extension, and education activities, regarding the development, availability, and use of economically and environmentally sound pest management tools and practices;
- assisting other agencies of the Department in fulfilling their responsibilities related to pest management or pesticides under the Food Quality Protection Act of 1996, the Federal Food, Drug and Cosmetic Act and other applicable laws;
- perform other functions as required by law of by request of the Secretary;
- ensure coordination of interagency activities with EPA and FDA and other Federal and state agencies; and
- consult with agricultural producers that may be affected by pest management or pesticide-related activities or actions of the Department or other agencies.''

The additional questions that will be added to the questionnaires will address the following topics:

- Growers practices used to reduce off-field pesticide drift,
- Growers participation in programs to manage pesticide drift,
- Grower decisions regarding application methods, nozzle choices, and spray tank management,
- Sources of information growers are using to inform their pest resistance management decisions,
- Grower practices employed to manage pesticide resistance,
- Grower Best Management Practices (BMPs) to prevent pesticide exposure to pollinators,
- Grower awareness of BMPs to prevent pesticide exposure to pollinators.

*Description of Respondents:* Farms.

*Number of Respondents:* 15,600.

*Frequency of Responses:* Reporting: Once.

*Total Burden Hours:* 11,981.

**Kimble Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2019–13425 Filed 6–24–19; 8:45 am]

BILLING CODE 3410–20–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Media Outlets for Publication of Legal and Action Notices in the Southern Region

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice lists all newspapers that will be used by the Ranger Districts, Grasslands, Forests and the Regional Office of the Southern Region to publish notices. The intended effect of this action is to inform members of the public which newspapers will be used by the Forest Service to publish legal notices regarding proposed actions, notices of decisions and notices indicating opportunities to file objections.

**DATES:** Use of these newspapers for purposes of publishing legal notice of decisions and notices of the opportunity to object under 36 CFR 218 and 36 CFR 219 shall begin the first day after the date of this publication.

**FOR FURTHER INFORMATION CONTACT:** Shannon Kelardy, Administrative Review Coordinator, Southern Region, Planning, 1720 Peachtree Road NW, Atlanta, Georgia 30309, Phone: (404) 347–2719.

**SUPPLEMENTARY INFORMATION:** Responsible Officials in the Southern Region will give notice of the opportunity to object to a proposed project under 36 CFR part 218, or developing, amending or revising land management plans under 36 CFR 219 in the following newspapers which are listed by Forest Service administrative unit. The timeframe for filing a comment, appeal or an objection shall be based on the date of publication of the notice of the proposed action in the newspaper of record for projects subject to 36 CFR 218 or 36 CFR 219. Where more than one newspaper is listed for any unit, the first newspaper listed is the newspaper of record that will be utilized for publishing the legal notice of decisions and calculating timeframes. Secondary newspapers listed for a particular unit are those newspapers the Deciding Officer/Responsible Official expects to use for purposes of providing additional notice. The following newspapers will be used to provide notice:

**Southern Region**

*Regional Forester Decisions*

Affecting National Forest System lands in more than one administrative unit of the 15 in the Southern Region,

*Atlanta Journal—Constitution,* published daily in Atlanta, Georgia. Affecting National Forest System lands in only one administrative unit or only one Ranger District will appear in the newspaper of record elected by the National Forest, National Grassland, National Recreation Area, or Ranger District as listed below.

**National Forests in Alabama, Alabama**

*Forest Supervisor Decisions*

Affecting National Forest System lands in more than one Ranger District of the 6 in the National Forests in Alabama, *Montgomery Advertiser,* published daily in Montgomery, Alabama. Affecting National Forest System lands in only one Ranger District will appear in the newspaper of record elected by the Ranger District as listed below.

*District Ranger Decisions*

Bankhead Ranger District: *Northwest Alabamian,* published bi-weekly (Wednesdays & Saturdays) in Haleyville, Alabama.

Conecuh Ranger District: *The Andalusia Star News,* published daily (Tuesday through Saturday) in Andalusia, Alabama.

Oakmulgee Ranger District: *The Tuscaloosa News,* published daily in Tuscaloosa, Alabama.

Shoal Creek Ranger District: *The Anniston Star,* published daily in Anniston, Alabama.

Talladega Division: *The Anniston Star,* published daily in Anniston, Alabama.

Talladega Ranger District: *The Daily Home,* published daily in Talladega, Alabama.

Tuskegee Ranger District: *Tuskegee News,* published weekly (Thursday) in Tuskegee, Alabama.

**Chattahoochee-Oconee National Forest, Georgia**

*Forest Supervisor Decisions*

*The Times,* published daily in Gainesville, Georgia.

*District Ranger Decisions*

Blue Ridge Ranger District: *The News Observer* (newspaper of record) published weekly (Wednesdays) in Blue Ridge, Georgia.

*North Georgia News,* (newspaper of record) published weekly (Wednesdays) in Blairsville, Georgia.

Conasauga Ranger District: *Daily Citizen,* published daily in Dalton, Georgia.

Chattooga River Ranger District: *The Northeast Georgian,* (newspaper of record) published bi-weekly (Wednesdays & Fridays) in Cornelia, Georgia.

*Clayton Tribune,* (newspaper of record) published weekly (Thursdays) in Clayton, Georgia.

Oconee Ranger District: *Eatonton Messenger,* published weekly (Thursdays) in Eatonton, Georgia.

**Cherokee National Forest, Tennessee**

*Forest Supervisor Decisions*

*Knoxville News Sentinel,* published daily in Knoxville, Tennessee.

*District Ranger Decisions*

Unaka Ranger District: *Greeneville Sun,* published daily (except Sunday) in Greeneville, Tennessee.

Ocoee-Hiwassee Ranger District: *Polk County News,* published Thursday only, Benton, Tennessee.

Tellico Ranger District: *Monroe County Advocate & Democrat,* published tri-weekly (Wednesdays, Fridays, and Sundays) in Sweetwater, Tennessee.

Watauga Ranger District: *Johnson City Press,* published daily in Johnson City, Tennessee.

**Daniel Boone National Forest, Kentucky**

*Forest Supervisor Decisions*

*Lexington Herald-Leader,* published daily in Lexington, Kentucky.

*District Ranger Decisions*

Cumberland Ranger District: *The Morehead News,* published bi-weekly (Tuesdays and Fridays) in Morehead, Kentucky.

London Ranger District: *The Sentinel-Echo,* published tri-weekly (Mondays, Wednesdays, and Fridays) in London, Kentucky.

Redbird Ranger District: *Manchester Enterprise,* published weekly (Thursdays) in Manchester, Kentucky.

Stearns Ranger District: *McCreary County Voice,* published weekly (Thursdays) in Whitley City, Kentucky.

**El Yunque National Forest, Puerto Rico**

*Forest Supervisor Decisions*

*El Nuevo Dia,* published daily in Spanish in San Juan, Puerto Rico.

*San Juan Daily Star,* published daily in English in San Juan, Puerto Rico.

**National Forests in Florida, Florida**

*Forest Supervisor Decisions*

Affecting National Forest System lands in more than one Ranger District in the National Forests in Florida or Florida National Scenic Trail land outside Ranger Districts, *The Tallahassee Democrat,* published daily in Tallahassee, FL. Affecting National Forest System lands in only one Ranger District will appear in the newspaper of record elected by the Ranger District as listed below.

*District Ranger Decisions*

Apalachicola Ranger District: *Calhoun-Liberty Journal,* published weekly (Wednesdays) in Bristol, Florida.

Lake George Ranger District: *The Ocala Star Banner,* published daily in Ocala, Florida.

Osceola Ranger District: *The Lake City Reporter,* published daily (except Sunday) in Lake City, Florida.

Seminole Ranger District: *The Daily Commercial,* published daily in Leesburg, Florida.

Wakulla Ranger District: *The Tallahassee Democrat,* published daily in Tallahassee, Florida.

**Francis Marion & Sumter National Forests, South Carolina**

*Forest Supervisor Decisions*

*The State,* published daily in Columbia, South Carolina.

*District Ranger Decisions*

Andrew Pickens Ranger District: *The Daily Journal,* published daily (Tuesday through Saturday) in Seneca, South Carolina.

Enoree Ranger District: *Newberry Observer,* published tri-weekly (Monday, Wednesday, and Friday) in Newberry, South Carolina.

Long Cane Ranger District: *Index-Journal,* published daily in Greenwood, South Carolina.

Francis Marion Ranger District: *Post and Courier,* published daily in Charleston, South Carolina.

**George Washington and Jefferson National Forests, Virginia and West Virginia**

*Forest Supervisor Decisions*

*Roanoke Times,* published daily in Roanoke, Virginia.

*District Ranger Decisions*

Clinch Ranger District: *Coalfield Progress,* published bi-weekly (Tuesdays and Fridays) in Norton, Virginia.

North River Ranger District: *Daily News Record,* published daily (except Sunday) in Harrisonburg, Virginia.

Glenwood-Pedlar Ranger District: *Roanoke Times,* published daily in Roanoke, Virginia.

James River Ranger District: *Virginian Review,* published daily (except Sunday) in Covington, Virginia.

Lee Ranger District: *Shenandoah Valley Herald,* published weekly (Wednesday) in Woodstock, Virginia.

Mount Rogers National Recreation Area: *Bristol Herald Courier,* published daily in Bristol, Virginia.

Eastern Divide Ranger District: *Roanoke Times,* published daily in Roanoke, Virginia.

Warm Springs Ranger District: *The Recorder,* published weekly (Thursday) in Monterey, Virginia.

**Kisatchie National Forest, Louisiana**

*Forest Supervisor Decisions*

*The Town Talk,* published tri-weekly (Sundays, Wednesdays, and Fridays) in Alexandria, Louisiana.

*District Ranger Decisions*

Calcasieu Ranger District: *The Town Talk,* (newspaper of record) published tri-weekly (Sundays, Wednesdays, and Fridays) in Alexandria, Louisiana.

*The Leesville Daily Leader,* (secondary) published tri-weekly (Sundays, Wednesdays, and Fridays) in Leesville, Louisiana.

Caney Ranger District: *Minden Press Herald,* (newspaper of record) published daily in Minden, Louisiana.

*Homer Guardian Journal,* (secondary) published weekly (Wednesdays) in Homer, Louisiana.

Catahoula Ranger District: *The Town Talk,* published tri-weekly (Sundays, Wednesdays, and Fridays) in Alexandria, Louisiana.

Kisatchie Ranger District: *Natchitoches Times,* published tri-weekly (Wednesdays, Satursdays, and Sundays) in Natchitoches, Louisiana.

Winn Ranger District: *Winn Parish Enterprise,* published weekly (Wednesdays) in Winnfield, Louisiana.

**Land Between The Lakes National Recreation Area, Kentucky and Tennessee**

*Area Supervisor Decisions*

*The Paducah Sun,* published daily in Paducah, Kentucky.

**National Forests in Mississippi, Mississippi**

*Forest Supervisor Decisions*

*Clarion-Ledger,* published daily in Jackson, Mississippi.

*District Ranger Decisions*

Bienville Ranger District: *Clarion-Ledger,* published daily in Jackson, Mississippi.

Chickasawhay Ranger District: *Clarion-Ledger,* published daily in Jackson, Mississippi.

Delta Ranger District: *Clarion-Ledger,* published daily in Jackson, Mississippi.

De Soto Ranger District: *Clarion Ledger,* published daily in Jackson, Mississippi.

Holly Springs Ranger District: *Clarion-Ledger,* published daily in Jackson, Mississippi.

Homochitto Ranger District: *Clarion-Ledger,* published daily in Jackson, Mississippi.

Tombigbee Ranger District: *Clarion-Ledger,* published daily in Jackson, Mississippi.

**National Forests in North Carolina, North Carolina**

*Forest Supervisor Decisions*

*The Asheville Citizen-Times,* published daily, Wednesday thru Sunday, (except Monday and Tuesday), in Asheville, North Carolina.

*District Ranger Decisions*

Appalachian Ranger District: *The Asheville Citizen-Times,* published Wednesday thru Sunday, in Asheville, North Carolina.

Cheoah Ranger District: *Graham Star,* published weekly (Thursdays) in Robbinsville, North Carolina.

Croatan Ranger District: *The Sun Journal,* published daily in New Bern, North Carolina.

Grandfather Ranger District: *McDowell News,* published daily in Marion, North Carolina.

Nantahala Ranger District: *The Franklin Press,* published bi-weekly (Tuesdays and Fridays) in Franklin, North Carolina.

Pisgah Ranger District: *The Asheville Citizen-Times,* published daily (Wednesday thru Sunday, except Monday and Tuesday) in Asheville, North Carolina.

Tusquitee Ranger District: *Cherokee Scout,* published weekly (Wednesdays) in Murphy, North Carolina.

Uwharrie Ranger District: *Montgomery Herald,* published weekly (Wednesdays) in Troy, North Carolina.

**Ouachita National Forest, Arkansas and Oklahoma**

*Forest Supervisor Decisions*

*Arkansas Democrat-Gazette,* published daily in Little Rock, Arkansas.

*District Ranger Decisions*

Caddo-Womble Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, Arkansas.

Jessieville-Winona-Fourche Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, Arkansas.

Mena-Oden Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, Arkansas.

Oklahoma Ranger District (Choctaw; Kiamichi; and Tiak): *McCurtain Daily Gazette,* published daily in Idabel, Oklahoma.

Poteau-Cold Springs Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, Arkansas.

**Ozark-St. Francis National Forests, Arkansas**

*Forest Supervisor Decisions*

*The Courier,* published daily (Tuesday through Sunday) in Russellville, Arkansas.

*District Ranger Decisions*

Bayou Ranger District: *The Courier,* published daily (Tuesday through Sunday) in Russellville, Arkansas.

Boston Mountain Ranger District: *Southwest Times Record,* published daily in Fort Smith, Arkansas.

Buffalo Ranger District: *The Courier,* published daily (Tuesday through Sunday) in Russellville, Arkansas.

Magazine Ranger District: *Southwest Times Record,* published daily in Fort Smith, Arkansas.

Pleasant Hill Ranger District: *Johnson County Graphic,* published weekly (Wednesday) in Clarksville, Arkansas.

St. Francis National Forest: *The Daily World,* published bi-weekly (Tuesdays and Fridays) in Helena, Arkansas.

Sylamore Ranger District: *Stone County Leader,* published weekly (Wednesday) in Mountain View, Arkansas.

**National Forests and Grasslands in Texas, Texas**

*Forest Supervisor Decisions*

*The Lufkin Daily News,* published daily in Lufkin, Texas.

*District Ranger Decisions*

Angelina National Forest: *The Lufkin Daily News,* published daily in Lufkin, Texas.

Caddo & LBJ National Grasslands: *Denton Record-Chronicle,* published daily in Denton, Texas.

Davy Crockett National Forest: *The Lufkin Daily News,* published daily in Lufkin, Texas.

Sabine National Forest: *The Lufkin Daily News,* published daily in Lufkin, Texas.

Sam Houston National Forest: *The Courier,* published daily in Conroe, Texas.

Dated: June 6, 2019.

**Frank R. Beum,**

*Acting Associate Deputy Chief, National Forest System.*

[FR Doc. 2019–13452 Filed 6–24–19; 8:45 am]

BILLING CODE 3411–15–P

## DEPARTMENT OF AGRICULTURE

### National Agricultural Statistics Service

### Notice of Opportunity To Submit Content Request for the 2022 Census of Agriculture

**AGENCY:** National Agricultural Statistics Service, USDA.

**ACTION:** Notice and request for stakeholder input.

**SUMMARY:** The National Agricultural Statistics Service (NASS) is currently accepting stakeholder feedback in the form of content requests for the 2022 Census of Agriculture. This census is required by law under the Census of Agriculture Act of 1997.

**DATES:** Comments on this notice must be received by July 25, 2019 to be assured of consideration.

**ADDRESSES:** Requests *must* address items listed in comments section below. Please submit requests online at *www.nass.usda.gov/go/aginput* or via mail to: USDA–NASS, Census of Agriculture Program, Room 6351, 1400 Independence Ave. SW, Washington, DC 20250.

If you have any questions, send an email to *nass.aginputcounts@.usda.gov* or call 1–800–727–9540.

**FOR FURTHER INFORMATION CONTACT:** Hubert Hamer, Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–2707, Fax: (855) 493–0445, or email: *nass.oa@usda.gov.*

**SUPPLEMENTARY INFORMATION:** The results of the 2017 Census of Agriculture were released on April 11, 2019. For more information, visit *www.nass.usda.gov/AgCensus.* While the National Agricultural Statistics Service (NASS) is completing the censuses in Puerto Rico, American Samoa, Guam, U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands (which will be published in early 2020), plans are underway for the next census of agriculture, which will be conducted in 2023, referencing 2022.

In preparation for the 2017 Census of Agriculture, NASS made numerous changes to the content and layout of the questionnaire based on extensive testing and input from data users. NASS is looking to stabilize the questionnaire for the 2022 Census of Agriculture so that data series can be created to measure more accurately all changes in U.S. agriculture. NASS recognizes that timely, reliable, and detailed statistics help maintain a stable economic atmosphere and reduce risk for production, marketing, and distribution operations. NASS is the primary data collection Agency of the U.S. Department of Agriculture (USDA). NASS is looking for ways to streamline the questionnaire to reduce respondent burden and data collection costs, while still providing data users with the detailed data they need.

NASS is beginning the process of planning the content of the 2022 Census of Agriculture. We are seeking input on ways to improve the census of agriculture. Recommendations or any other ideas concerning the census would be greatly appreciated. The 2017 Census of Agriculture questionnaire may be viewed on-line at: *www.nass.usda.gov/go/censusform.* The following justification categories should be addressed when proposing a new line of questioning for the 2022 Census of Agriculture:

1. What data are needed?
2. Why are the data needed?
3. At what geographic level are the data needed? (U.S., State, County, other)
4. Who will use these data?
5. What decisions will be influenced with these data?
6. What surveys have used the proposed question before; what testing has been done on the question; and what is known about its reliability and validity?
7. Draft of the recommended question.

All responses to this notice will become a matter of public record and be summarized and considered by NASS in preparing the 2022 Census of Agriculture questionnaire for OMB approval.

Signed at Washington, DC, May 29, 2019.

**Kevin L. Barnes,**

*Associate Administrator.*

[FR Doc. 2019–13432 Filed 6–24–19; 8:45 am]

BILLING CODE 3410–20–P

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Illinois Advisory Committee to the U.S. Commission on Civil Rights

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights and the Federal Advisory Committee Act that the Illinois Advisory Committee will hold a meeting on Wednesday, July 3, 2019, at 12:00 p.m. Central Time for the purpose of discussing the Committee's report on fair housing issues.

**DATES:** The meeting will be held on Wednesday, July 3, 2019, at 12:00 p.m. Central Time.

*Public Call Information:* Dial: 800–353–6461, Conference ID: 1125210.

**FOR FURTHER INFORMATION CONTACT:** Alejandro Ventura, Designated Federal Official, at *aventura@usccr.gov* or 213–894–3437.

**SUPPLEMENTARY INFORMATION:** Members of the public may listen to the discussion. This meeting is available to the public through the call in information listed above. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement to the Committee as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 230 South Dearborn St., Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Illinois Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

**Agenda**

I. Welcome and Roll Call
II. Discussion of Briefing Report on Fair Housing Issues
  A. Materials in the record and summaries of testimony
  B. Structure of briefing report
  C. Discussion of themes and recommendations
IV. Public Comment
V. Next Steps
VI. Adjournment

*Exceptional Circumstance:* Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of the federal government shutdown.

Dated: June 20, 2019.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2019–13487 Filed 6–24–19; 8:45 am]

**BILLING CODE P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Michigan Advisory Committee

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Michigan Advisory Committee (Committee) will hold a meeting on Wednesday, July 24, 2019, at 2:00 p.m. EST the purpose of the meeting will be to discuss findings and recommendations for the voting rights report.

**DATES:** The meeting will be held on Wednesday, July 24, 2019, at 2:00 p.m. EST.

*Public Call Information:* Dial: 877–260–1479; Conference ID: 7667161.

**FOR FURTHER INFORMATION CONTACT:** Ana Victoria Fortes, DFO, at *afortes@usccr.gov* or 213–894–3437.

**SUPPLEMENTARY INFORMATION:** Members of the public can listen to the discussion. This meeting is available to the public through the above toll-free call-in number. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit Office, U.S. Commission on Civil Rights, 230 S Dearborn St., Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov*. Persons who desire additional information may contact the Regional Programs Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Michigan Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Office at the above email or street address.

**Agenda**

I. Welcome and Roll Call
II. Discussion about finding and recommendations for the voting rights report
III. Next Steps
IV. Public Comment
V. Adjournment

Dated: June 20, 2019.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2019–13480 Filed 6–24–19; 8:45 am]

**BILLING CODE 6335–01–P**

## DEPARTMENT OF COMMERCE

### Economic Development Administration

### Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

**AGENCY:** Economic Development Administration, U.S. Department of Commerce.

**ACTION:** Notice and opportunity for public comment.

**SUMMARY:** The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

**SUPPLEMENTARY INFORMATION:**

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[05/17/2019 through 06/18/2019]

| Firm name | Firm address | Date accepted for investigation | Product(s) |
|---|---|---|---|
| Herschel Parts, Inc | 1301 North 14th Street, Indianola, IA 50125. | 6/7/2019 | The firm manufactures parts for farm machinery and equipment. |
| Bulk AG Innovations, LLC, d/b/a West Michigan Tool & Die. | 1007 Nickerson Avenue, Benton Harbor, MI 49022. | 6/14/2019 | The firm manufactures tooling and parts for die casting machines. |
| General Tool Specialties, Inc | 284 Sunnymead Road, Hillsborough Township, NJ 08844. | 6/18/2019 | The firm manufactures molds for manufacturing plastics. |

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

**Irette Patterson,**

*Program Analyst.*

[FR Doc. 2019–13469 Filed 6–24–19; 8:45 am]

**BILLING CODE 3510–WH–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* Bureau of Industry and Security.

*Title:* Special Priorities Assistance.

*OMB Control Number:* 0694–0057.

*Form Number(s):* BIS–999.

*Type of Review:* Regular Submission.

*Estimated Total Annual Burden Hours:* 600.

*Estimated Number of Respondents:* 1,200.

*Estimated Time per Response:* 30 minutes.

*Needs and Uses:* The information collected from defense contractors and suppliers on Form BIS–999, Request for Special Priorities Assistance, is required for the enforcement and administration of special priorities assistance under the Defense Production Act, the Selective Service Act and the Defense Priorities and Allocation System regulation. Contractors may request Special Priorities Assistance (SPA) when placing rated orders with suppliers, to obtain timely delivery of products, materials or services from suppliers, or for any other reason under the DPAS, in support of approved national programs. The Form BIS–999 is used to apply for such assistance.

*Affected Public:* Business or other for-profit organizations.

*Frequency:* On occasion.

*Respondent's Obligation:* Voluntary.

This information collection request may be viewed at *reginfo.gov http://www.reginfo.gov/public/*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

**Sheleen Dumas,**

*Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2019–13448 Filed 6–24–19; 8:45 am]

**BILLING CODE 3510–33–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–967; C–570–968]**

### Aluminum Extrusions From the People's Republic of China: Notice of Second Amended Final Scope Ruling Pursuant to Court Decision

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On May 23, 2018, the Court of Appeals for the Federal Circuit (the CAFC) reversed and vacated, in part, the Court of International Trade's (the CIT) earlier decisions, vacated Commerce's remand determination, and reinstated Commerce's original scope ruling, in part. In Commerce's original scope ruling, Commerce found that Whirlpool Corporation's (Whirlpool) kitchen appliance door handles with plastic end caps were covered by the general scope language of the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum extrusions from the People's Republic of China (China). On May 1, 2019, the CIT granted Whirlpool's request to dismiss the litigation concerning its handles. Accordingly, Commerce is issuing a second amended final scope ruling.

**DATES:** Applicable June 25, 2019.

**FOR FURTHER INFORMATION CONTACT:** Eric Greynolds, AD/CVD Operations, Office III, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–6071.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 4, 2014, Commerce found that kitchen appliance door handles with plastic end caps imported by Whirlpool were subject to the *Orders.*[1] Specifically, Commerce found that the handles did not fall under the finished merchandise or finished goods kit exclusions, based on its interpretation of these exclusions, as adopted in prior scope rulings.[2]

Whirlpool filed suit challenging the Final Scope Ruling. In *Whirlpool I,* the CIT held that ''the general scope language is not reasonably interpreted to include the kitchen appliance door handles described in Whirlpool's first scope ruling request{,}'' (*i.e.,* the kitchen appliance door handles with plastic end caps).[3] The CIT further held that, even if the general scope language could be reasonably interpreted to include the handles, Commerce's determination that the handles did not satisfy the finished merchandise exclusion based on Commerce's interpretation of the exclusion was in error.[4] Therefore, the CIT remanded the Final Scope Ruling to Commerce for reconsideration in light of *Whirlpool I.*[5]

In its Remand Redetermination, under protest, Commerce complied with *Whirlpool I* and found the handles were not covered by the general scope language of the *Orders.*[6] Commerce did not further address the finished merchandise exclusion. The CIT affirmed the Remand Redetermination in *Whirlpool II.*[7] Pursuant to *Whirlpool II,* on September 27, 2016, Commerce published its *First Amended Final Scope Ruling,* finding that the handles

[1] *See* Memorandum, ''Final Scope Ruling on Kitchen Appliance Door Handles with Plastic End Caps and Kitchen Appliance Door Handles without Plastic End Caps,'' dated August 4, 2014 (Final Scope Ruling).

[2] *Id.* at 16–21, citing, *e.g.,* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Final Scope Ruling on Meridian Kitchen Appliance Door Handles,'' dated June 21, 2013, (Kitchen Appliance Door Handles I Scope Ruling) and Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Final Scope Ruling on J.A. Hancock, Inc.'s Geodesic Structures,'' (July 17, 2012) (Geodesic Domes Scope Ruling).

[3] *See Whirlpool Corporation* v. *United States*, 144 F. Supp. 3d 1296, 1303 (CIT 2016) (*Whirlpool I*). The Court affirmed Commerce's determination that the kitchen appliance door handles without end caps are within the scope of the *Orders. Id.* at 1306.

[4] *Id.* at 1304.

[5] *Id.* at 1305–07.

[6] *See* Final Results of Redetermination Pursuant to Court Remand, *Whirlpool Corp.* v. *United States*, Court No. 14–00199, Slip Op. 16–08 (CIT February 1, 2016), dated April 15, 2016 (Remand Redetermination).

[7] *See Whirlpool Corporation* v. *United States*, 182 F. Supp. 3d 1307 (CIT 2016) (*Whirlpool II*).

were not covered by the scope of the *Orders.*[8]

The Aluminum Extrusion Fair Trade Committee (AEFTC), the petitioner in the underlying investigations, appealed. In *Whirlpool III,* the CAFC held that:

> {T}he CIT erred when it stated that assembly processes were absent from the specified post-extrusion processes. The general scope language unambiguously includes aluminum extrusions that are part of an assembly. The Orders explicitly include aluminum extrusions ''that are assembled after importation'' in addition to ''aluminum extrusion components that are attached (*e.g.,* by welding or fasteners) to form subassemblies.'' [9]

Thus, the CAFC held that Commerce's determination in the Final Scope Ruling ''that the general scope language includes Whirlpool's assembled handles was supported by substantial evidence.'' [10] The CAFC further held that Commerce's determination that the handles did not satisfy the finished merchandise exclusion was based on an incorrect interpretation of the exclusion.[11] Therefore, the CAFC reversed *Whirlpool II,* which affirmed the Remand Redetermination, and instructed the CIT to vacate the Remand Redetermination and reinstate the Final Scope Ruling, in part, with respect to Commerce's determination that the general scope language included the handles.[12] The CAFC further vacated those portions of *Whirlpool I* that held that the general scope language did not cover the handles.[13] In addition, the CAFC affirmed, in part, those portions of *Whirlpool I* which rejected Commerce's interpretation of the finished merchandise exclusion and instructed the CIT to vacate the remainder of the Final Scope Ruling.[14] Finally, the CAFC remanded to the CIT for Commerce to reconsider its interpretation of the finished merchandise exclusion as it pertains to Whirlpool's handles.[15]

On January 14, 2019, in *Whirlpool IV,* in accordance with *Whirlpool III,* the CIT vacated the Remand Redetermination, reinstated those portions of the Final Scope Ruling concluding that Whirlpool's handles are within the general scope language of the *Orders,* vacated the remaining portions of the Final Scope Ruling, and remanded for Commerce to reconsider whether Whirlpool's handles satisfied the finished merchandise exclusion.[16] The CIT further ordered that ''{s}hould Commerce determine that the assembled handles are within the scope of the Orders despite the finished merchandise exclusion, it must explain its reasoning and also must clarify whether it is concluding that the handles in their entirety, or only the extruded aluminum components therein, are within the scope of the Orders.'' [17]

On April 1, 2019, Commerce issued the Draft Second Remand Determination in which it found the extruded aluminum components of Whirlpool's handles to be within the scope of the *Orders* and the non-extruded aluminum components to be outside the scope of the *Orders.*[18] Before Commerce issued the final remand redetermination and filed it with the CIT, Whirlpool requested that the CIT voluntarily dismiss the action.[19] On May 1, 2019, the CIT granted Whirlpool's request to voluntarily dismiss the case.[20]

## Second Amended Final Scope Ruling

As noted above, there is now a final and conclusive court decision which reinstates those portions of the Final Scope Ruling in which Commerce determined that Whirlpool's handles are within the general scope language of the *Orders.* As a result of the dismissal of Whirlpool's action, no further action is required. Therefore, we are issuing a second amended final scope ruling and find that Whirlpool's handles are within the scope of the *Orders.*

Accordingly, Commerce will instruct U.S. Customs and Border Protection to continue to suspend liquidation of Whirlpool's handles until appropriate liquidation instructions are sent. As of the date of publication of this notice in the **Federal Register**, the cash deposit rate for entries of Whirlpool's handles will be the applicable cash deposit rate of the exporters of the merchandise from China to the United States.

## Notification to Interested Parties

This notice is issued and published in accordance with section 516A(c)(1) and (e)(1) of the Tariff Act of 1930, as amended.

Dated: June 18, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2019–13479 Filed 6–24–19; 8:45 am]

BILLING CODE 3510–DS–P

[8] *See Aluminum Extrusions from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Scope Ruling and Notice of Amended Final Scope Ruling Pursuant to Court Decision,* 81 FR 66259 (September 27, 2016) (*First Amended Final Scope Ruling*).

[9] *See Whirlpool Corporation* v. *United States,* 890 F.3d 1302, 1309 (Fed. Cir. 2018) (*Whirlpool III*).

[10] *Id.*

[11] *Id.* at 1309–11.

[12] *Id.* at 1311.

[13] *Id.*

[14] *Id.* at 1311–12.

[15] *Id.* at 1312.

[16] *See Whirlpool Corporation* v. *United States,* 357 F. Supp. 3d 1328, 1363–64 (CIT 2019) (*Whirlpool IV*).

[17] *Id.* at 1363.

[18] *See* Draft Results of Second Redetermination Pursuant to Court Remand, *Whirlpool Corp.* v. *United States,* Ct. No. 14–00199, Slip Op. 19–6, dated April 1, 2019 (Draft Second Remand Determination).

[19] *See* Ct. No. 14–199, ECF Docket No. 75.

[20] *See* Ct. No. 14–199, ECF Docket No. 76.

# DEPARTMENT OF COMMERCE

## International Trade Administration

**[A–523–812]**

## Circular Welded Carbon-Quality Steel Pipe From Oman: Final Results of Antidumping Duty Administrative Review; 2016–2017

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) determines that Al Jazeera Steel Products Co. SAOG (Al Jazeera) made sales of certain welded carbon quality steel pipe from Oman at less than normal value (NV) during the period of review (POR) June 8, 2016 through November 30, 2017.

**DATES:** Applicable June 26, 2019.

**FOR FURTHER INFORMATION CONTACT:** Dennis McClure or Robert Palmer, 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) 482–5973 or (202) 482–9068, respectively.

**SUPPLEMENTARY INFORMATION:**

## Background

Commerce published the *Preliminary Results* on December 11, 2018.[1] For events subsequent to the *Preliminary Results, see* Commerce's Issues and Decision Memorandum.[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]

[1] *See Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman: Preliminary Results of Antidumping Duty Administrative Review;* 2016–2017, 83 FR 63621 (December 11, 2018) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman: Issues and Decision Memorandum for the Final Results; 2016–2017,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations,

Additionally, on May 9, 2019, Commerce extended the deadline for these final results by 30 days.[4] Accordingly, the revised deadline for these Final Results of this administrative review became June 19, 2019. Between March 15 and March 20, 2019, interested parties submitted case and rebuttal briefs.[5]

## Scope of the Order

Imports covered by the order are shipments of circular welded carbon-quality steel pipe. The merchandise subject to review is currently classifiable under items 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5015, 7306.30.5020, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5030, 7306.50.5050, and 7306.50.5070 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.[6]

## Analysis of Comments Received

In the Issues and Decision Memorandum, we addressed the issues raised in parties' case and rebuttal briefs. In the Appendix to this notice, we provide a list of the issues raised by parties. The Issues and 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 in the Central Records Unit (CRU), Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

## Changes Since the Preliminary Results

Based on our review of the record and comments received from interested parties, these final results do not differ from the *Preliminary Results.*

## Final Results of the Review

As a result of this review, Commerce determines that the following weighted-average dumping margin exists for the period June 8, 2016 through November 30, 2017:

| Producer and/or exporter | Weighted-average dumping margin (percent) |
|---|---|
| Al Jazeera Steel Products Co. SAOG | 3.84 |

## Duty Assessment

Pursuant to section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.212(b), Commerce shall determine and Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.[7] Commerce intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review.

For any individually examined respondent whose weighted-average dumping margin is above *de minimis,* we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.,* at or above 0.5 percent), Commerce will issue instructions directly to CBP to assess antidumping duties on appropriate entries. Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

In accordance with Commerce's ''automatic assessment'' practice,[8] for entries of subject merchandise during the POR produced by each respondent 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. We intend to issue assessment instructions directly 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 subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for Al Jazeera noted above will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers 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 for the most recently completed segment of this proceeding; (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 of this proceeding for the manufacturer of the subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 7.36 percent, the all-others rate established in the antidumping investigation.[9] These cash deposit requirements, when imposed, shall remain in effect until further notice.

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. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day.

[4] *See* Memorandum, ''Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman: Extension of Deadline for Final Results of 2016–2017 Antidumping Duty Administrative Review,'' dated May 9, 2019.

[5] *See* Letter from Wheatland Tube Company and Bull Moose Tube, ''Circular Welded Carbon-Quality Steel Pipe from Oman: Case Brief,'' dated March 15, 2019; *see also* Letter from Al Jazeera, ''Circular Welded Carbon-Quality Steel Pipe from Oman; Al Jazeera's Rebuttal Case Brief,'' dated March 20, 2019.

[6] *See* Issues and Decision Memorandum for a complete description of the scope of the Order.

[7] In these final 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).

[8] For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[9] *See Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, and the United Arab Emirates: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Orders,* 81 FR 91906 (December 19, 2016).

### Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

### Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

### Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: June 19, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

## Appendix

**List of Topics Discussed in the Final Issues and Decision Memorandum**

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Issues
  Comment 1: Whether a Particular Market Situation Exists.
  Comment 2: Whether To Use Quarterly Costs
V. Recommendation

[FR Doc. 2019–13478 Filed 6–24–19; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Proposed Information Collection; Comment Request; West Coast Region Federal Fisheries Permits—Northwest

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before August 26, 2019.

**ADDRESSES:** Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *PRAcomments@doc.gov*).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Jahnava Duryea at (916) 930–3725 or via email at *jahnava.duryea@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

This request is for a revision and extension of a currently approved information collection.

The Magnuson-Stevens Act (16 U.S.C. 1801) provides that the Secretary of Commerce is responsible for the conservation and management of marine fisheries resources in the Exclusive Economic Zone (EEZ), 3–200 nautical miles off the United States (U.S.) coastline. NOAA Fisheries, Northwest Region manages the Pacific Coast Groundfish Fishery in the EEZ off Washington, Oregon, and California under the Pacific Coast Groundfish Fishery Management Plan. The regulations implementing the Pacific Groundfish Fishery require that those vessels participating in the limited entry fishery to be registered to a valid limited entry permit. Participation in the fishery and access to a limited entry permit has been restricted to control the overall harvest capacity.

NOAA Fisheries seeks comment on the extension of permit information collections required for: (1) Renewal and transfer of Pacific Coast Groundfish limited entry permits (LEPs); (2) implementation of certain provisions of the sablefish permit stacking program as provided for at 50 CFR 660.231 and 660.25; and (3) issuing and fulfilling the terms and conditions of certain exempted fishing permits (EFPs).

The regulations implementing the limited entry program are found at 50 CFR part 660, subpart G.

Also, NOAA Fisheries requires an information collection to implement certain aspects of the sablefish permit stacking program which prevents excessive fleet consolidation. As part of the annual renewal process, NOAA Fisheries requires a corporation or partnership that owns or holds (as vessel owner) a sablefish endorsed permit to provide a complete ownership interest form listing all individuals with ownership interest in the entity. Similarly, any sablefish endorsed permit transfer involving registration of a business entity requires an ownership interest form if either the permit owner or vessel owner is a corporation or partnership. This information is used to determine if individuals own or hold sablefish permits in excess of the limit of three permits. Also, for transfer requests made during the sablefish primary season (April 1st through October 31st), the permit owner is required to report the remaining tier pounds not yet harvested on the sablefish endorsed permit at the time of transfer.

Applicants for an EFP must submit written information that allows NOAA Fisheries and the Pacific Fishery Management Council to evaluate the proposed exempted fishing project activities and weigh the benefits and costs of the proposed activities. The Council makes a recommendation on each EFP application and for successful applicants, NOAA Fisheries issues the EFP which contains terms and conditions for the project including various reporting requirements. The information included in an application is specified at 50 CFR 600.745(b)(2) and the Council Operating Procedure #19. Permit holders are required to file preseason harvest plans, interim and/or final summary reports on the results of the project, and in some cases individual vessels and other permit holders are required to provide data reports (*i.e.,* logbooks and/or catch reports). The results of EFPs are commonly used to explore ways to reduce effort on depressed stocks, encourage innovation and efficiency in the fishery, provide access to constrained stocks by directly measuring the bycatch associated with

such strategies, and evaluate/revise current and proposed management measures.

Letters of Authorization (LOAs) and Exempted Educational Activity Authorizations (EEAAs) were historically collected under OMB control number 0648–0309. To reduce burden estimates, National Marine Fisheries Service (NMFS) Headquarters proposed to move LOAs and EEAAs to their respective region's permit family-of-forms collections.

NMFS may grant exemptions from fishery regulations for educational or other activities (*e.g.,* using non-regulation gear). An EEAA is a permit issued by the Regional Office to accredited educational institutions that authorize, for educational purposes, the target or incidental harvest of species managed under a fisheries management plan or fishery regulations that would otherwise be prohibited. EEAAs are generally of limited scope and duration and authorize the take of the amount of fish necessary to demonstrate the lesson. Researchers are requested to submit reports of their scientific research activity after its completion.

LOAs are required under Section 101(a)(5)(A) of the Marine Mammal Protection Act (MMPA) of 1972 for the incidental take of marine mammals during fisheries surveys and related research activities conducted by the Northwest Fisheries Science Center (NWFSC), NMFS. Management of certain marine mammals falls under the jurisdiction of the NMFS under the MMPA and Endangered Species Act (ESA) and mechanisms exist under both the MMPA and ESA to assess the effect of incidental takings and to authorize appropriate levels of take.

## II. Method of Collection

Renewal forms are mailed to all permit owners, which they must submit by mail or in person. Ownership interest forms and permit transfer forms are available from the region's website but must be submitted to NOAA Fisheries by mail or in person. Applications for an EFP must be submitted in a written format. The EFP data reports may be submitted in person, faxed, submitted by telephone or emailed by the monitor, plant manager, vessel owner, or operator to NOAA Fisheries or the states of Washington, Oregon, or California.

## III. Data

*OMB Control Number:* 0648–0203.

*Form Number(s):* None.

*Type of Review:* Regular submission (revision and extension of a currently approved collection).

*Affected Public:* Non-profit institutions; State, local, or tribal government; business or other for-profit organizations.

*Estimated Number of Respondents:* 539.

*Estimated Time per Response:* Permit renewals: 20 minutes; Permit transfers: 30 minutes; Sablefish ownership interest form: 10 minutes; EFP Applications: 32 hours; EFP Trip Notifications: 2 minutes; EFP Harvest Plans: 16 hours; EFP Data Reports: 2 hours; EFP Summary Reports: Interim report, 4 hours; final report, 20 hours; Letters of Authorization: 6 hours; Exempted Educational Activities Authorizations, 6 hours.

*Estimated Total Annual Burden Hours:* 2,011 hours.

*Estimated Total Annual Cost to Public:* $56,468.

## IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

**Sheleen Dumas,**

*Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2019–13484 Filed 6–24–19; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Proposed Information Collection; Comment Request; Greater Atlantic Region Permit Family of Forms

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before August 26, 2019.

**ADDRESSES:** Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *PRAcomments@doc.gov*).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Cynthia Ferrio, Greater Atlantic Regional Fisheries Office, 55 Great Republic Dr., Gloucester, MA 01930, (978) 281–9180, *Cynthia.ferrio@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Abstract

This request is for extension of a current information collection.

Under the Magnuson-Stevens Fishery Conservation and Management Act, the Secretary of Commerce has the responsibility for the conservation and management of marine fishery resources. Much of this responsibility has been delegated to NOAA's National Marine Fisheries Service (NMFS). Under this stewardship role, the Secretary was given certain regulatory authorities to ensure the most beneficial uses of these resources. One of the regulatory steps taken to carry out the conservation and management objectives is to collect information from users of the resources.

The Secretary has enacted rules to issue permits to individuals and organizations participating in federally controlled fisheries. Permits are necessary to: (1) Register fishermen, fishing vessels, fish dealers and processors; (2) list the characteristics of fishing vessels and/or dealer/processor operations; (3) exercise influence over compliance (*e.g.,* withhold issuance pending collection of unpaid penalties); (4) maintain contact lists for the dissemination of important information to the industry; (5) register participants to be considered for limited entry; and (6) provide a universe for data collection samples. Identification of fishery participants, their gear types, vessels, and expected activity levels is an

effective and necessary tool in the enforcement of fishery regulations.

This collection also includes the requirement for participants in certain fisheries to use onboard vessel monitoring systems (VMS) and to notify NMFS before fishing trips for the purpose of observer placement. Other permitting in this collection includes the written request to participate in any of the various exemption programs offered in the Greater Atlantic region. Exemption programs may allow a vessel to fish in an area that is limited to vessels of a particular size, using a certain gear type, or fishing for a particular species. This collection also contains paperwork required for vessel owners to transfer permits through a vessel replacement, request gillnet and lobster trap tags through the Greater Atlantic region permit office.

Lastly, vessel owners that own multiple vessels, but would like to request communication from NMFS be consolidated into one mailing (and not separate mailings for each vessel), may request the single letter vessel owner option to improve efficiency of their business practice.

## II. Method of Collection

*Commercial Fishing and Dealer Permits*

All vessel permit applications, including permit applications and renewals for vessels, vessel replacements, dealers, and vessel operators, as well as gillnet and lobster trap tag purchase, are submitted by signed paper form sent in the mail.

*VMS Requirements*

Vessels with VMS requirements are required to declare their intent to fish (*e.g.,* declare into the fishery) and submit daily catch reports using electronic VMS units on board the vessel. Other VMS actions may include trip start and end hails, pre-landing notifications, and days-at-sea (DAS) adjustments. VMS power down exemption requests are submitted by signed paper form.

*Observer Program Call-In Requirements*

Vessels issued certain permits such as Northeast multispecies, monkfish, scallop, and Atlantic herring permits are required to give advance notification to the Northeast Fisheries Observer Program (NEFOP) before the start of a trip in order to receive a fisheries observer or a waiver. Vessels use an online pre-trip notification system, email, toll-free call-in number, or a local phone number to comply with this requirement.

*Exempted Fisheries Programs*

Vessels that would like to request participation in one or more of the Greater Atlantic region fisheries exemption programs must either submit a request electronically using their VMS unit, by declaring into an exempted fishery prior to the start of a trip, or by mailing in a written request to participate in the program(s) of interest.

*Vessel Owner Single Letter Option*

Vessel owners that own multiple vessels, but would like to receive only a single Greater Atlantic Fisheries Bulletin or small entity compliance guide instead of one for each vessel permit, must submit a written request to NMFS to participate in this program.

## III. Data

*OMB Control Number:* 0648–0202.

*Form Number(s):* None.

*Type of Review:* Regular (extension of a current information collection).

*Affected Public:* Businesses and other for-profit organizations are primarily affected. Individuals or households, state, local or tribal governments, and the Federal Government are also affected.

*Estimated Number of Respondents:* 65,360.

*Estimated Time per Response:* Varies.

*Vessel Permits*

Vessel permit application: 45 minutes; vessel permit renewal forms: 30 minutes; initial dealer permit applications: 15 minutes; dealer permit renewal forms: 5 minutes; initial and renewal vessel operator permit applications: 1 hour; obtaining and submitting a dealer or vessel owner email address: 5 minutes; limited access vessel replacement applications: 1.5 hours; and applications for retention of limited access permit history: 1.5 hours.

*VMS Requirements*

Installing a VMS unit: 1 hour; confirming VMS connectivity: 5 minutes; VMS certification form: 5 minutes; VMS installation for Canadian herring transport vessels: 1 hour and 20 minutes; email to declare their entrance and departure from U.S. waters: 15 minutes; automatic polling of vessel position using the VMS unit: 0 minutes; area and DAS declarations: 5 minutes; declaration of days-out of the gillnet fishery for monkfish and NE multispecies vessels: 5 minutes; Good Samaritan DAS credit request: 30 minutes; entangled whale DAS credit request: 30 minutes; DAS credit for a canceled trip due to unforeseen circumstances, but have not yet begun fishing: 5 minutes to request via the VMS unit and 10 minutes to request via the paper form; VMS catch reports: 5 minutes; VMS power down exemption: 30 minutes.

*Observer Program Call-In Requirements*

Requests for observer coverage are estimated to require either 2 or 10 minutes per request, depending on the program for which observers are requested.

*Exempted Fisheries Programs*

Letter of Authorization (LOA) to participate in any of the exemption programs: 5 minutes; Charter/Party Exemption Certificate for GOM Closed Areas: 5 minutes; limited access sea scallop vessels state waters DAS exemption program or state waters gear exemption program: 2 minutes; withdraw from either state waters exemption program prior to the end of the 7-day designated exemption period requirement: 2 minutes; request for change in permit category designation: 5 minutes; request for transit to another port by a vessel required to remain within the GOM cod trip limit: 2 minutes; gillnet category designation, including initial requests for gillnet tags: 10 minutes; requests for additional tags: 2 minutes; notification of lost tags and requests for replacement tag numbers: 2 minutes; attachment of gillnet tags: 1 minute; initial lobster area designations: 5 minutes; requests for additional tags: 2 minutes; and notification of lost tags: 3 minutes; requests for state quota transfers in the bluefish, summer flounder and scup fisheries: 1 hour; GOM cod trip limit exemption: 5 minutes; vessel owner single letter option: 5 minutes.

*Estimated Total Annual Burden Hours:* 20,825.

*Estimated Total Annual Cost to Public:* $2,536,248 in recordkeeping/reporting costs.

## IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

**Sheleen Dumas,**

*Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2019–13482 Filed 6–24–19; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Permit and Reporting Requirements for Non-commercial Fishing in the Rose Atoll, Marianas Trench, and Pacific Remote Islands Marine National Monuments.

*OMB Control Number:* 0648–0664.

*Form Number(s):* None.

*Type of Request:* Regular (extension of a previously approved information collection).

*Number of Respondents:* 25.

*Average Hours per Response:* 0.25 hr per permit application, 0.33 hr per log sheet.

*Burden Hours:* 40.

*Needs and Uses:* NMFS manages non-commercial fishing activities in the Rose Atoll Marine, Marianas Trench, and Pacific Remote Islands Marine National Monuments. Regulations at 50 CFR part 665 require the owner and operator of a vessel used to non-commercially fish for, take, retain, or possess any management unit species in these monuments to hold a valid permit issued by NMFS.

Regulations also require the owner and operator of a vessel that is chartered to fish recreationally for, take, retain, or possess, any management unit species in these monuments to hold a valid permit issued by NMFS. The fishing vessel must be registered to the permit. The charter business must be established legally in the permit area where it will operate. Charter vessel clients are not required to have a permit.

The permit application collects basic information about the permit applicant, type of operation, vessel, and permit area. NMFS uses this information to confirm the identity of the applicant and determine permit eligibility. The information is important for understanding the nature of the fishery and its participants. It also aids in the enforcement of fishing regulations within the monuments.

Regulations also require the vessel operator to report a complete record of catch, effort, and other data on a NMFS log sheet. The vessel operator must record all requested information on the log sheet within 24 hours of the completion of each fishing day. The vessel operator also must sign, date, and submit the form to NMFS within 30 days of the end of each fishing trip. NMFS uses the information provided in the log sheets to monitor fishing activities, evaluate and assess the status of fish stocks and determine whether changes in management are needed to sustain the productivity of the fishery and conserve marine resources.

*Affected Public:* Business or other for-profit organizations, individuals or households.

*Frequency:* Annually for permit, periodically for log sheet.

*Respondent's Obligation:* Mandatory.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

**Sheleen Dumas,**

*Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2019–13447 Filed 6–24–19; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XH067**

### Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

**ACTION:** Notice; public meeting.

**SUMMARY:** The Mid-Atlantic Fishery Management Council's (Council) Atlantic Mackerel, Squid, and Butterfish (MSB) Monitoring Committee will meet via webinar to develop recommendations for 2020 MSB specifications, focusing on the river herring and shad cap for the mackerel fishery.

**DATES:** The meeting will be held on Tuesday, July 9, 2019, from 9 a.m. to 12 p.m.

**ADDRESSES:** The meeting will be held via webinar with an audio-only connection option. Details on the proposed agenda, connection information, and briefing materials will be posted at the MAFMC's website: *www.mafmc.org.*

*Council address:* Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

**FOR FURTHER INFORMATION CONTACT:** Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

**SUPPLEMENTARY INFORMATION:** The Council's MSB Monitoring Committee will meet via webinar to develop recommendations for 2020 MSB specifications, focusing on the river herring and shad cap for the mackerel fishery. Those recommendations will be considered by the Council at separately-noticed future meetings.

#### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to any meeting date.

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

Dated: June 20, 2019.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2019–13446 Filed 6–24–19; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

**[Docket ID: USA–2019–HQ–0022]**

### Proposed Collection; Comment Request

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Information collection notice.

**SUMMARY:** In compliance with the *Paperwork Reduction Act of 1995,* the U.S. Army Corps of Engineers

announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and 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.

**DATES:** Consideration will be given to all comments received by August 26, 2019.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09B, Alexandria, VA 22350–1700.

*Instructions:* All submissions received must include the agency name, docket number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the US Army Corps of Engineers, Charleston District, ATTN: George E. Ebai, 69A Hagood Avenue, Charleston, SC 29403; call at 843–329–8068; or email at *george.e.ebai@usace.army.mil.*

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Number:* 2019 Agricultural Shipper Transportation Needs Survey—Ohio River System; OMB Control Number 0710–XXXX.

*Needs and Uses:* The information collection requirement is necessary to determine National Economic Development (NED) benefits and recreation values for five recreation sites, including Miami-Dade County FL, Pinellas County FL, Collier County FL, Folly Beach SC, and San Juan Coast Line, PR. As part of this investigation, the Corps will evaluate the existing recreation demand and tourism opportunities provided by each project. The proposed methodology (design) involves an onsite intercept survey of eligible recreationist to collect data on recreational trips and activities within the region, state, and nation. The models will be used to produce empirical estimates of economic value of beach replenishment.

*Affected Public:* Individuals or Households.

*Annual Burden Hours:* 1,125.

*Number of Respondents:* 4,500.

*Responses per Respondent:* 1.

*Annual Responses:* 4,500.

*Average Burden per Response:* 15 minutes.

*Frequency:* On occasion.

Respondents are public visitors to US Army Corps of Engineers Recreation Areas. Visitors exiting the recreation area by vehicle are stopped as potential respondents. Participation is voluntary. Respondents are asked questions in the following categories; characteristics of visit, number of people in the vehicle, description of overnight stay, activity participation, number of trips, income level, age group, sex, and parking facilities.

The onsite survey at the project beaches will focus on users, visit intensity, and preferences for site quality. Survey will collect recent historical trip decisions, contingent behavior (CB) responses describing how visitation might change with site quality (*e.g.* loss of beach due to erosion; increasing beach area due to replenishment), and stated preference responses designed to assess support for beach management policy.

Dated: June 20, 2019.

**Morgan E. Park,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2019–13461 Filed 6–24–19; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID DOD–2019–HA–0075]**

### Proposed Collection; Comment Request

**AGENCY:** Office of the Assistant Secretary of Defense for Health Affairs, DoD.

**ACTION:** Information collection notice.

**SUMMARY:** In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and 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.

**DATES:** Consideration will be given to all comments received by August 26, 2019.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

*Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

*Mail:* Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Health Agency, TRICARE Health Plan, 16401 East

Centretech Parkway Aurora, CO 80011–9066, ATTN: Jahanbakhsh Badshah, or call 303–676–3881.

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Number:* Application for Champus Provider Status: Corporate Services Provider, DD Form 3030, 0720–0020.

*Needs and Uses:* This information collection requirement is necessary to ensure that the conditions are met for authorization as a TRICARE/CHAMPUS Corporate Service Provider. Respondents are freestanding corporations and foundations seeking authorization under the TRICARE/CHAMPUS program to provide otherwise covered professional services to eligible TRICARE/CHAMPUS beneficiaries.

*Affected Public:* Business or other for-profit.

*Annual Burden Hours:* 111.67.

*Number of Respondents:* 335.

*Responses per Respondent:* 1.

*Annual Responses:* 335.

*Average Burden per Response:* 20 minutes.

*Frequency:* As required.

Dated: June 20, 2019.

**Morgan E. Park,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2019–13470 Filed 6–24–19; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID DOD–2019–HA–0074]**

### Proposed Collection; Comment Request

**AGENCY:** Office of the Assistant Secretary of Defense for Health Affairs, DoD.

**ACTION:** Information collection notice.

**SUMMARY:** In compliance with the *Paperwork Reduction Act of 1995,* the Defense Health Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and 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.

**DATES:** Consideration will be given to all comments received by August 26, 2019.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

*Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

*Mail:* Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Health Agency Uniform Business Office, 8111 Gatehouse Road, Suite 200, Falls Church, VA 22042 Attn: DeLisa E. Prater, Program Manager, or call 703–275–6380.

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Number:* Third Party Collection Program (Insurance Information); DD Form 2569; OMB Control Number 0720–0055.

*Needs and Uses:* The information collection requirement is necessary to obtain health insurance policy information used for coordination of health care benefits and billing third party payers and other federal agencies for health care provided to their beneficiaries and also to civilian non-Uniformed Service beneficiaries for health care provided to them. DoD is authorized to collect from third-party payers the cost of inpatient and outpatient services rendered to DoD beneficiaries who have other health insurance. Military treatment facilities (MTFs) are required to make this form available to third-party payers upon request. A third-party payer may not request any other assignment of benefits form from the subscriber. Also, for civilian non-Uniformed Services beneficiary and interagency patients, DD Form 2569 is necessary and serves as an assignment of benefits approval to submit claims to payers on behalf of the patient and authorization to release medical information.

*Affected Public:* Individuals or households.

*Annual Burden Hours:* 394,000.

*Number of Respondents:* 3,940,000.

*Responses per Respondent:* 1.5.

*Annual Responses:* 5,910,000.

*Average Burden per Response:* 4 minutes.

*Frequency:* On occasion.

Dated: June 20, 2019.

**Morgan E. Park,**

*Alternate OSD Federal Register, Liaison Officer, Department of Defense.*

[FR Doc. 2019–13468 Filed 6–24–19; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Department of the Navy

**[Docket ID: USN–2019–HQ–0013]**

### Proposed Collection; Comment Request

**AGENCY:** United States Naval Academy (USNA), DoD.

**ACTION:** Information collection notice.

**SUMMARY:** In compliance with the *Paperwork Reduction Act of 1995,* the United States Naval Academy announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and 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.

**DATES:** Consideration will be given to all comments received by August 26, 2019.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

*Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

*Mail:* Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the United States Naval Academy, 121 Blake Road, Annapolis, MD 21402, Shannon Campbell, 410–293–1550.

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Number:* United States Naval Academy Sponsor Program, USNA Sponsor Application; USNA 1531/12; OMB Control Number 0703–0054.

*Needs and Uses:* The information collection requirement is necessary to determine eligibility and compatibility for the USNA Sponsor Program. The information will be used to to assist the Naval Academy in managing the USNA Sponsor Program and to assign midshipmen to sponsors, to maintain a record of the names and addresses of families assigned as sponsors or who are interested in the Sponsor Program, and to contact sponsors either by phone or written correspondence.

*Affected Public:* Individuals or Households.

*Annual Burden Hours:* 800.

*Number of Respondents:* 800.

*Responses per Respondent:* 1.

*Annual Responses:* 800.

*Average Burden per Response:* 1 hour.

*Frequency:* Annually.

Dated: June 20, 2019.

**Morgan E. Park,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2019–13465 Filed 6–24–19; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF EDUCATION

### Applications for New Awards; Tribally Controlled Postsecondary Career and Technical Institutions Program

**AGENCY:** Office of Career, Technical, and Adult Education, Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2019 for the Tribally Controlled Postsecondary Career and Technical Institutions Program (TCPCTIP), Catalog of Federal Domestic Assistance (CFDA) number 84.245. This notice does not relate to an approved information collection because the number of expected respondents is fewer than nine, making the notice exempt from the Paperwork Reduction Act.

**DATES:**

*Applications Available:* June 25, 2019.

*Deadline for Notice of Intent to Apply:* Applicants are strongly encouraged, but not required, to submit a notice of intent to apply by July 5, 2019.

*Deadline for Transmittal of Applications:* July 25, 2019.

*Pre-Application Webinar Information:* For information about a pre-application webinar or potential future webinars, visit the Perkins Collaborative Resource Network (PCRN) at *http://cte.ed.gov/.*

**ADDRESSES:** For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

**FOR FURTHER INFORMATION CONTACT:** Gwen Washington, U.S. Department of Education, 400 Maryland Avenue SW, Potomac Center Plaza (PCP), Room 11076, Washington, DC 20202–7241. Telephone: (202) 245–7790. Email: *gwen.washington@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll-free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

### Full Text of Announcement

### I. Funding Opportunity Description

*Purpose of Program:* Section 117 of the Carl D. Perkins Career and Technical Education Act of 2006, as amended by the Strengthening Career and Technical Education for the 21st Century Act (Pub. L. 115–224) (Perkins V or the Act), authorizes the Secretary to make grants to Tribally Controlled Postsecondary Career and Technical Institutions [1] that do not receive Federal support under title I of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1802, *et seq.*) or the Navajo Community College Act (Pub. L. 92–189; 85 Stat. 646) for Career and Technical Education programs for Indian students and for the institutional support costs of the grant.

*Application Requirements:* The application requirements are from the Notice of Final Requirements and Definitions—Tribally Controlled Postsecondary Career and Technical Institutions Program (Notice of Final Requirements and Definitions), which was published in the **Federal Register** on June 4, 2019 (84 FR 25773). All applicants must meet the application requirements in order to be considered for funding.

To receive a TCPCTIP grant, an applicant must include the following in its application:

(a) Documentation showing that the applicant is eligible, according to each of the requirements in the *Eligible Applicants* section of this notice (and pursuant to section 117(a) and (d) of Perkins V), including meeting the definition of the terms ''Tribally Controlled Postsecondary Career and Technical Institution'' and ''Institution of Higher Education'' (*e.g.,* proof of the institution's accreditation status) and certification that the institution does not receive Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801, *et seq.*) or the Navajo Community College Act (Pub. L. 92–189; 85 Stat. 646).

(b) Descriptions of the Career and Technical Education programs, including academic courses, to be supported under the proposed TCPCTIP project. Projects funded under this competition must propose organized educational activities that meet the definition of Career and Technical Education, as that term is defined in section 3(5) of the Act.

(c) The estimated number of students to be served by the proposed project in each Career and Technical Education program in each year of the project.

(d) Goals and objectives for the proposed project, including how the attainment of the goals and objectives would further Tribal economic development plans, if any.

(e) A detailed budget identifying the costs to be paid with funds under this program for each year of the project period, and resources available from other Federal, State, and local sources, including any student financial aid, that will be used to achieve the goals and objectives of the proposed project.

(f) A description of the procedure the applicant intends to use to determine student eligibility for Stipends and stipend amounts, and its oversight

[1] Throughout this notice, all defined terms are denoted with capitals.

procedures for the awarding and payment of Stipends.

*Program Requirements:* The program requirements are from the Act and the Notice of Final Requirements and Definitions.

*Program Requirement 1—Uses of Funds.*

(a) Funds made available under this program must be used for Career and Technical Education programs for Indian Students and for the Institutional Support Costs of the grant, including the following expenses—

(1) The maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with disabilities and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, daycare and family support programs for students and their families (including contributions to the costs of education for dependents), and student stipends;

(2) Capital expenditures, including operations and maintenance, minor improvements and repair, and physical plant maintenance costs, for the conduct of programs funded under this section;

(3) Costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment; and

(4) Institutional Support of Career and Technical Education. (20 U.S.C. 2327(b) and (e))

*Program Requirement 2—Student Stipends.*

(a) Stipends may be paid to enable students to participate in a TCPCTIP Career and Technical Education program.

(1) To be eligible for a Stipend, a student must—

(i) Be enrolled in a Career and Technical Education project funded under this program;

(ii) Be in regular attendance in a TCPCTIP project and meet the training institution's attendance requirement;

(iii) Maintain satisfactory progress in his or her program of study according to the training institution's published standards for satisfactory progress; and

(iv) Have an acute economic need that prevents participation in a project funded under this program without a Stipend and that cannot be met through a work-study program.

(b) The amount of a Stipend is based on the greater of either the minimum hourly wage prescribed by State or local law or the minimum hourly wage established under the Fair Labor Standards Act.

(c) A grantee may only award a Stipend if the Stipend combined with other resources the student receives does not exceed the student's financial need. A ''student's financial need'' is the difference between the student's cost of attendance and the financial aid or other resources available to defray the student's cost of participating in a TCPCTIP project.

(d) To calculate the amount of a student Stipend, a grantee would multiply the number of hours a student actually attends Career and Technical Education instruction by the greater of the amount of the minimum hourly wage that is prescribed by State or local law or by the minimum hourly wage that is established under the Fair Labor Standards Act.

*Example:* If a grantee uses the Fair Labor Standards Act minimum hourly wage of $7.25 and a student attends classes for 20 hours a week, the student's Stipend would be $145 for the week during which the student attends classes ($7.25 × 20 = $145).

(e) Grantees must maintain records that fully support their decisions to award Stipends and the amounts that are paid, such as proof of a student's enrollment in a TCPCTIP, Stipend applications, timesheets showing the number of attendance hours confirmed in writing by an instructor, student financial status information, and evidence that a student would not be able to participate in the TCPCTIP project without a Stipend. (20 U.S.C. 1232f; 34 CFR 75.700–75.702, 75.730, and 75.731)

(f) An eligible student may receive a Stipend when taking a course for the first time. However, a Stipend may not be provided to a student who has already taken, completed, and had the opportunity to benefit from a course and is merely repeating the course.

*Definitions:* The definitions of Career and Technical Education, Indian, Indian Student Count, Indian Tribe, and Tribally Controlled Postsecondary Career and Technical Institution are from sections 3 and 117(h) of Perkins V. The definition of Institution of Higher Education is from section 101 of the Higher Education Act of 1965, as amended (HEA), because Perkins V adopted the HEA definition. The definition of Recognized Postsecondary Credential is from section 3 of the Workforce Innovation and Opportunity Act (WIOA) (29 U.S.C. 3102), because Perkins V adopted the WIOA definition. The definitions of Institutional Support of Career and Technical Education and Stipend are from the Notice of Final Requirements and Definitions.

*Career and Technical Education* means organized educational activities that—

(a) Offer a sequence of courses that—

(1) Provides individuals with rigorous academic content and relevant technical knowledge and skills needed to prepare for further education and careers in current or emerging professions, which may include high-skill, high-wage, or in-demand industry sectors or occupations, which shall be, at the secondary level, aligned with the challenging State academic standards adopted by a State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 (ESEA);

(2) Provides technical skill proficiency or a Recognized Postsecondary Credential which may include an industry-recognized credential, a certificate, or an associate degree; and

(3) May include prerequisite courses (other than a remedial course) that meet the requirements of this subparagraph;

(b) Include competency-based, work-based, or other applied learning that supports the development of academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, employability skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual;

(c) To the extent practicable, coordinate between secondary and postsecondary education programs through programs of study, which may include coordination through articulation agreements, early college high school programs, dual or concurrent enrollment program opportunities, or other credit transfer agreements that provide postsecondary credit or advanced standing; and

(d) May include career exploration at the high school level or as early as the middle grades (as such term is defined in section 8101 of the ESEA) (20 U.S.C. 2302(5)).

*Indian* means a person who is a member of an Indian Tribe, as defined in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (20 U.S.C. 2327(h)(1); 25 U.S.C. 1801).

*Indian Student Count* means a number equal to the total number of Indian students enrolled in each tribally controlled postsecondary career and technical institution, as determined in accordance with the following:

(a) *Enrollment.* For each academic year, the Indian student count must be determined on the basis of the enrollments of Indian students as in effect at the conclusion of—

(1) In the case of the fall term, the third week of the fall term; and

(2) In the case of the spring term, the third week of the spring term.

(b) *Calculation.* For each academic year, the Indian student count for a tribally controlled postsecondary career and technical institution must be the quotient obtained by dividing the sum of the credit hours of all Indian students enrolled in the tribally controlled postsecondary career and technical institution by 12.

(c) *Summer Term.* Any credit earned in a class offered during a summer term must be counted in the determination of the Indian student count for the succeeding fall term.

(d) *Students Without Secondary School Degrees.*

(1) A credit earned at a tribally controlled postsecondary career and technical institution by any Indian student who has not obtained a secondary school degree (or the recognized equivalent of such a degree) must be counted toward the determination of the Indian student count if the institution at which the student is enrolled has established criteria for the admission of the student on the basis of the ability of the student to benefit from the education or training of the institution.

(2) The institution must be presumed to have established the criteria described in paragraph (d)(1) of this definition if the admission procedures for the institution include counseling or testing that measures the aptitude of a student to complete successfully a course in which the student is enrolled.

(3) No credit earned by an Indian student for the purpose of obtaining a secondary school degree (or the recognized equivalent of such a degree) may be counted toward the determination of the Indian student count.

(e) *Continuing Education Programs.* Any credit earned by an Indian student in a continuing education program of a tribally controlled postsecondary career and technical institution must be included in the determination of the sum of all credit hours of the student if the credit is converted to a credit-hour basis in accordance with the system of the institution for providing credit for participation in the program (20 U.S.C. 2327(h)(2)).

*Indian Tribe* means any Indian Tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians (20 U.S.C. 2327(h)(1); 25 U.S.C. 1801(a)(2)).

*Institution of Higher Education* means—

(a) An educational institution in any State that—

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a two-year program that is acceptable for full credit toward such a degree, or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association or, if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary of Education for the granting of pre-accreditation status, and the Secretary of Education has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) The term also includes—

(1) Any school that provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provisions of paragraphs (1), (2), (4) and (5) of subsection (a) of this definition; and

(2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this definition, admits as regular students individuals—

(A) Who are beyond the age of compulsory school attendance in the State in which the institution is located; or

(B) Who will be dually or concurrently enrolled in the institution and a secondary school (20 U.S.C. 1001; 20 U.S.C. 2302(30)).

*Institutional Support of Career and Technical Education* means administrative expenses incurred by an eligible institution that are related to conducting a Career and Technical Education program for Indian students that is assisted under section 117 of the Act and administering a grant awarded under section 117 (Notice of Final Requirements and Definitions).

*Recognized Postsecondary Credential* means a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the State involved or Federal Government, or an associate or baccalaureate degree (20 U.S.C. 2302(43); 29 U.S.C. 3102(52)).

*Stipend* means a subsistence allowance for a student that is necessary for the student to participate in a project funded under this program (Notice of Final Requirements and Definitions).

*Tribally Controlled Postsecondary Career and Technical Institution* means an Institution of Higher Education (as defined in section 101 of the Higher Education Act of 1965, except that subsection (a)(2) of such section shall not be applicable and the reference to Secretary in subsection (a)(5) of such section shall be deemed to refer to the Secretary of the Interior) that—

(a) Is formally controlled, or has been formally sanctioned or chartered, by the governing body of an Indian Tribe or Tribes;

(b) Offers a technical degree or certificate granting program;

(c) Is governed by a board of directors or trustees, a majority of whom are Indians;

(d) Demonstrates adherence to stated goals, a philosophy, or a plan of operation, that fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated Tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

(e) Has been in operation for at least three years;

(f) Holds accreditation with or is a candidate for accreditation by a nationally recognized accrediting authority for postsecondary career and technical education; and

(g) Enrolls the full-time equivalent of not less than 100 students, of whom a majority are Indians. (20 U.S.C. 2302(52)).

*Program Authority:* Section 117 of Perkins V (20 U.S.C. 2327).

*Applicable Regulations:* (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform

Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The Notice of Final Requirements and Definitions.

## II. Award Information

*Type of Award:* Discretionary grants.

*Estimated Available Funds:* $9,468,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2020 and subsequent years from the list of unfunded applications from this competition.

*Estimated Range of Awards:* $3,000,000 to $6,000,000 for the first 12 months.

*Estimated Average Size of Awards:* $4,734,000.

*Estimated Number of Awards:* 2.

*Note:* The Department is not bound by any estimates in this notice.

*Project Period:* Up to 60 months.

*Grant Award Amounts if Appropriated Funds Are Not Sufficient:* Pursuant to section 117(c)(1) and (2) of Perkins V (20 U.S.C. 2327(c)(1) and (2)), if the sums appropriated for any fiscal year for grants under this program are not sufficient to pay in full the total amount which approved applicants are eligible to receive under this program for such fiscal year, we shall first allocate to each such applicant who received funds under this program for the preceding fiscal year an amount equal to 100 percent of the product of the per capita payment for the preceding fiscal year and such applicant's Indian Student Count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure resulting from inflationary increases to necessary costs beyond the institution's control. The per capita payment for any fiscal year shall be determined by dividing the amount available for grants to Tribally Controlled Postsecondary Career and Technical Institutions under this program for such program year by the sum of the Indian Student Counts of such institutions for such program year. The Secretary shall, on the basis of the most accurate data available from the institutions, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations.

## III. Eligibility Information

1. *Eligible Applicants:* Any Tribally Controlled Postsecondary Career and Technical Institution is eligible to apply for a grant under this program if it is not receiving Federal support under title I of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1802 *et seq.*), or the Navajo Community College Act (Pub. L. 92–189; 85 Stat. 646).

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements. (20 U.S.C. 2391(a))

3. *Other Indirect Costs:* Institutions receiving grants under this program will not be required to use a restricted indirect cost rate. (20 U.S.C. 2327(c)(3))

4. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

## IV. Application and Submission Information

1. *Application and Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

3. *Notice of Intent to Apply:* The Department will be able to review grant applications more efficiently if we know the approximate number of applicants that intend to apply. Therefore, we strongly encourage each potential applicant to notify us of their intent to submit an application. To do so, please email the program contact person listed under **FOR FURTHER INFORMATION CONTACT** with the subject line ''Intent to Apply,'' and include the applicant's name and a contact person's name and email address. Applicants that do not submit a notice of intent to apply may still apply for funding; applicants that do submit a notice of intent to apply are not bound to apply or bound by the information provided.

## V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 75.210 and, consistent with 34 CFR 75.209, from statutory provisions that apply to the program. The maximum score for all of the selection criteria is 100 points. The maximum score for each criterion and factor is indicated in parentheses. The selection criteria for this competition are as follows:

(a) *Quality of the Project Design and Project Services (up to 30 points).* (1) The Secretary considers the quality of the design of the proposed project and the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (up to 5 points) (34 CFR 75.210(d)(2)).

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable (up to 5 points) (34 CFR 75.210 (c)(2)(i)).

(ii) The extent to which the proposed project will promote the development of services and activities that integrate rigorous and challenging academic and career and technical instruction, and that link secondary education and postsecondary education for participating career and technical education students (up to 5 points) (20 U.S.C. 2301 (2)).

(iii) The likelihood that the service to be provided by the proposed project will lead to improvements in the skills necessary to gain employment or build capacity for independent living (up to 5 points) (34 CFR 75.210(d)(3) (viii)).

(iv) The extent to which the proposed project will increase efficiency in the use of time, staff, money, or other resources in order to improve results and increase productivity (up to 5 points) (34 CFR 75.210(c)(2)(xxvi)).

(v) The extent to which the proposed project will provide professional development activities that are an integral part of the institution's strategies for providing educators with the knowledge and skills necessary to enable students to succeed in Career and Technical Education and to achieve academic skills at the postsecondary level and are sustained (not stand-alone, 1-day, or short-term workshops), intensive collaborative, job-embedded, data-driven, and classroom-focused, to the extent practicable evidence-based (5 points) (20 U.S.C. 2302(40)).

(b) *Quality of the Management Plan (up to 25 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and the milestones for accomplishing project tasks (up to 15 points) (34 75.210 (g)(2)(i)).

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project (up to 10 points) (34 75.210(g)(2)(iv)).

(c) *Quality of Project Personnel (up to 15 points).*

(1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (up to 5 points) (34 CFR 75.210 (e)(2)).

(3) In addition, the Secretary considers the qualifications, including relevant training and experience, of the project director, other key personnel, and project consultants (up to 10 points) (34 CFR 75.210(e)(3)(i), (ii), and (iii)).

(d) *Adequacy of Resources (up to 10 points).* (1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization (up to 5 points) (34 CFR 75.210(f)(2)(i)).

(ii) The extent to which the budget is adequate to support the proposed project (up to 5 points) (34 CFR 75.210(f)(2)(iii)).

(e) *Quality of the Project Evaluation (up to 20 points).* (1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation proposed by the grantee are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project (up to 5 points) (34 CFR 75.210 (h)(2)(i)).

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible (up to 5 points) (34 CFR 75.210 (h)(2)(iv)).

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes (up to 5 points) (34 CFR 75.210(h)(2)(vi)).

(iv) The qualifications, including relevant training, experience, and independence, of the evaluator (up to 5 points) (34 CFR 75.210(h)(2)(xii)).

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Before making awards, we will screen applications submitted in accordance with the requirements in this notice to determine whether applications have met eligibility and other requirements. This screening process may occur at various stages of the process; applicants that are determined to be ineligible will not receive a grant, regardless of peer reviewer scores or comments.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2), we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

## VI. Award Administration Information

1. *Award Notices:* (a) If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

(b) If your application is not evaluated or not selected for funding, we notify you.

(c) Pursuant to section 117(g) of Perkins V, in 2007, the Department established, after consultation with Tribally Controlled Postsecondary Career and Technical Institutions, a complaint resolution procedure for grant determinations and calculations made under this program. The complaint resolution procedure is posted on the PCRN at *https://cte.ed.gov/grants/tribally-controlled-postsecondary-career-and-technical-institutions-program.*

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Secretary has established the following performance measures for assessing the effectiveness of TCPCTIP:

(a) Number of associate degrees and certificates awarded in Career and Technical Education fields during the preceding school year;

(b) Percent of full-time, first-time degree or certificate-seeking American Indian or Alaska Native undergraduates who graduated within 150 percent of the normal time to program completion;

(c) Percent of full-time, first-time degree or certificate-seeking undergraduates who, within eight years of first enrolling, received a postsecondary award from the institution, remain enrolled at the institution, or who subsequently enrolled at another institution;

(d) Percent of part-time, first-time degree or certificate-seeking undergraduates who, within eight years of first enrolling, received a degree or certificate from the institution, remain enrolled at the institution, or who subsequently enrolled at another institution;

(e) Percent of full-time, non-first-time degree or certificate-seeking undergraduates who, within eight years of first enrolling, received a degree or certificate from the institution, remain enrolled at the institution, or who subsequently enrolled at another institution; and

(f) Percent of part-time, non-first-time degree or certificate-seeking undergraduates who, within eight years of first enrolling, received a degree or certificate from the institution, remain enrolled at the institution, or who subsequently enrolled at another institution.

The use of these indicators for GPRA will relieve reporting burden on TCPCTIP grantees because these indicators are among those that Tribally Controlled Postsecondary Career and Technical Institutions and other institutions of higher education that participate in Federal student aid programs authorized by title IV of HEA now report on annually to the National Center for Education Statistics through the Integrated Postsecondary Education Data System. The Secretary will set GPRA targets and report results separately for each TCPCTIP grantee.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

## VII. Other Information

*Accessible Format:* Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**Scott Stump,**

*Assistant Secretary for Career, Technical, and Adult Education.*

[FR Doc. 2019–13488 Filed 6–24–19; 8:45 am]

BILLING CODE 4000–01–P

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## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Nevada

**AGENCY:** Office of Environmental Management, Department of Energy (DOE).

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

**DATES:** Wednesday, July 17, 2019—4:00 p.m.

**ADDRESSES:** Frank H. Rogers Science and Technology Building, 755 East Flamingo, Las Vegas, Nevada 89119.

**FOR FURTHER INFORMATION CONTACT:** Barbara Ulmer, Board Administrator, 232 Energy Way, M/S 167, North Las Vegas, Nevada 89030. Phone: (702) 523–0894; Fax (702) 295–2025 or Email: *nssab@emcbc.doe.gov.*

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Board:* The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

*Tentative Agenda:*

1. Briefing and Recommendation Development for Pahute Mesa Groundwater Sampling Well Prioritization—Work Plan Item #1
2. Briefing and Recommendation Development for Waste Verification Strategy—Work Plan Item #3

*Public Participation:* The meeting is open to the public. The EM SSAB, Nevada, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Barbara Ulmer at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Barbara Ulmer at the telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments can do so during the 15 minutes allotted for public comments.

*Minutes:* Minutes will be available by writing to Barbara Ulmer at the address listed above or at the following website: *http://www.nnss.gov/NSSAB/pages/MM_FY19.html.*

Signed in Washington, DC, on June 20, 2019.

**LaTanya Butler,**

*Deputy Committee Management Officer.*

[FR Doc. 2019–13486 Filed 6–24–19; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Update on Reimbursement for Costs of Remedial Action at Uranium and Thorium Processing Sites

**AGENCY:** Office of Environmental Management, Department of Energy.

**ACTION:** Notice of the Title X claims during fiscal year (FY) 2019.

**SUMMARY:** This Notice announces the Department of Energy's (DOE) acceptance of claims in FY 2019 from eligible uranium and thorium processing site licensees for reimbursement under Title X of the Energy Policy Act of 1992. The FY 2020 Department of Energy Office of Environmental Management's Congressional Budget Request included $21.035 million for the Title X Program.

**DATES:** The closing date for the submission of FY 2019 Title X claims is September 13, 2019. The claims will be processed for payment together with any eligible unpaid approved claim balances from prior years, based on the availability of funds from congressional appropriations. If the total approved claim amounts exceed the available funding, the approved claim amounts will be reimbursed on a prorated basis. All reimbursements are subject to the availability of funds from congressional appropriations.

**ADDRESSES:** Claims should be forwarded by certified or registered mail, return receipt requested, to U.S. Department of Energy, Office of Legacy Management, Attn: Jalena Dayvault, Lead for Review of Title X Reimbursement of Claims, U.S. Department of Energy, Office of Legacy Management, 2597 Legacy Way, Grand Junction, Colorado 81503. Two copies of the claim should be included with each submission.

**FOR FURTHER INFORMATION CONTACT:** Jaffet Ferrer-Torres, Title X Program Lead and Coordinator, at (202) 586–0730 or Email: *jaffet.ferrer-torres@hq.doe.gov,* of the U.S. Department of Energy, Office of Environmental Management, Office of Waste Disposal.

**SUPPLEMENTARY INFORMATION:** DOE published a final rule under 10 CFR part 765 in the **Federal Register** on May 23, 1994, (59 FR 26714) to carry out the requirements of Title X of the Energy Policy Act of 1992 (sections 1001–1004 of Pub. L. 102–486, 42 U.S.C. 2296a *et seq.*) and to establish the procedures for eligible licensees to submit claims for reimbursement. DOE amended the final rule on June 3, 2003, (68 FR 32955) to adopt several technical and administrative amendments (*e.g.,* statutory increases in the reimbursement ceilings). Title X requires DOE to reimburse eligible uranium and thorium licensees for certain costs of decontamination, decommissioning, reclamation, and other remedial action incurred by licensees at active uranium and thorium processing sites. The eligible licensees incurred these costs to remediate byproduct material, generated as an incident of sales to the United States Government of uranium or thorium that was extracted or concentrated from ores processed primarily for their source material contents. To be reimbursable, costs of remedial action must be for work that is necessary to comply with applicable requirements of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 *et seq.*) or, where appropriate, with requirements established by a State pursuant to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021). Claims for reimbursement must be supported by reasonable documentation as determined by DOE in accordance with 10 CFR part 765. Funds for reimbursement will be provided from the Uranium Enrichment Decontamination and Decommissioning Fund established at the Department of Treasury pursuant to section 1801 of the Atomic Energy Act of 1954 (42 U.S.C. 2297g). Payment or obligation of funds shall be subject to the requirements of the Anti-Deficiency Act (31 U.S.C. 1341).

**Authority:** Section 1001–1004 of Public Law 102–486, 106 Stat. 2776 (42 U.S.C. 2296a *et seq.*).

Signed in Washington, DC, on June 18, 2019.

**Jaffet Ferrer-Torres,**

*Title X Program Lead and Coordinator, Office of Waste Disposal, Office of Environmental Management.*

[FR Doc. 2019–13474 Filed 6–24–19; 8:45 am]

**BILLING CODE 6450–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OECA–2012–0666; FRL–9995–05–OMS]**

### Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for the Printing and Publishing Industry (Renewal)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for the Printing and Publishing Industry (EPA ICR Number 1739.09, OMB Control Number 2060–0335), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through June 30, 2019. Public comments were previously requested via the **Federal Register** on May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before July 25, 2019.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0666, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

*Abstract:* The National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Printing and Publishing Industry were proposed on March 14, 1995, promulgated on May 30, 1998, and most-recently amended on April 21, 2011. These regulations apply to both existing and new facilities operating publication rotogravure, product and packaging rotogravure, or wide-web flexographic printing presses at major sources. These standards also apply to owners and/or operators who choose to commit to and meet the criteria of establishing the facility to be an area source of hazardous air pollutants (HAP). New facilities include those that commenced construction or reconstruction after the effective date of this subpart. This information is being collected to assure compliance with 40 CFR part 63, subpart KK.

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP.

*Form Numbers:* None.

*Respondents/affected entities:* Printing and publishing facilities.

*Respondent's obligation to respond:* Mandatory (40 CFR part 63, subpart KK).

*Estimated number of respondents:* 352 (total).

*Frequency of response:* Initially and semiannually.

*Total estimated burden:* 59,800 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $7,220,000 (per year), which includes $414,000 in annualized capital/startup and/or operation & maintenance costs.

*Changes in the Estimates:* There is no change in the labor hours in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, this ICR assumes the respondent universe subject to the regulation has remained stable since the last ICR renewal.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2019–13454 Filed 6–24–19; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Agency Information Collection Activities: Proposed Collection; Comment Request Re: Information Collection for Generic Clearance for Prize Competition Participation (OMB No. 3064–NEW)

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice and request for comment.

**SUMMARY:** The FDIC plans periodically to conduct prize competitions under authority of Section 24 of the Stevenson-Wydler Technology Innovation Act of 1980 and the Federal Deposit Insurance Act.

The FDIC is proposing a new generic collection of information for prize competition participants. The FDIC invites the general public, including persons who may have an interest in participating in FDIC-sponsored or co-sponsored prize competitions, and other Federal agencies to comment on the proposal, as required by the Paperwork Reduction Act of 1995. At the end of the comment period, any comments and recommendations received will be reviewed to determine the extent to which the collection should be modified prior to the submission to OMB for review and approval.

**DATES:** Comments must be submitted on or before August 26, 2019.

**ADDRESSES:** Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *https://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *https://www.regulations.gov.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Jennifer Jones, Counsel, MB–3105, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the above address located on F Street NW, on business days between 7:00 a.m. and 5:00 p.m., EST.

All comments should reference ''Information Collection for Generic Clearance for Prize Competition

Participation.'' A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Jones, at the FDIC mailing address above or by phone at 202–898–6768.

**SUPPLEMENTARY INFORMATION:**

**Proposal for the Following New Generic Collection of Information**

1. *Title:* Generic Clearance for Prize Competition Participation.

*OMB Number:* 3064–NEW.

*Form Number:* None.

*Affected Public:* Innovators; technologists, coders, engineers and developers; consumers of financial services; consumer advocates; academics; members of trade groups and other associations; individuals connected to financial institutions, community banks, and financial and bank service and technology providers; software, data, and technology firms; and other members of the public.

*Estimated Burden per Prize Competition:*

*Estimated Annual Number of Respondents:* 300.

*Estimated Average Time per Response:* 20 hours.

*Total Estimated Annual Burden per Prize Competition:* 6,000 hours.

*General Description of Collection:* The FDIC seeks generic clearance for the collection of information requested from potential participants (including innovators; technologists, coders, engineers and developers; consumers of financial services; consumer advocates; academics; members of trade groups and other associations; individuals connected to financial institutions, community banks, and financial and bank service and technology providers; software, data, and technology firms; and other members of the public) with respect to solicitations for expressions of interest to participate in FDIC-sponsored or co-sponsored prize competitions of various types, including point solution competitions (designed to spur the development of solutions for a particular problem) and exposition (designed competitions to identify and promote a broad range of ideas and practices to facilitate further development by third parties). Prize competitions and the opportunity to submit applications to participate will be announced on the agency's publicly accessible government website, as well as possibly through other forms of public communication, such as publication in the **Federal Register**, issuance of Financial Institution Letters, use of *challenge.gov* website maintained by the U.S. General Services Administration, or social media advertisement.

In order for the FDIC to determine which applicants will be eligible and selected to participate in FDIC prize competitions, the FDIC will request that potential participants provide their name, contact information, address, and such other information that may be necessary to evaluate applicants' qualifications and ability to participate in the event as well as to match the applicants' anticipated role to the needs of the competition. Applicants will also be asked to acknowledge the terms and conditions of participating in the prize competition. Information will be collected during prize competitions through the solutions to the challenges or problems presented.

This information collection will be voluntary. Collection in the form of application will be conducted primarily online with alternative methods made available. Collection during the events will be in-person or electronic. The FDIC will consult with OMB regarding each specific information collection during the approval period.

The FDIC estimates that over the three-year clearance period of this request, up to five (5) competitions will be conducted across various divisions of the agency, involving a variety of topics and challenges associated with underserved communities and financial inclusion; consumer protection; the FDIC's use of information technology and data (including artificial intelligence and machine learning); and financial and technologically-driven innovation in banking. The total hourly burden attributed to this generic clearance will be 30,000 hours (6,000 hours per prize competition × 5 competitions per year).

**Request for Comment**

*Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the 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 collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, on June 20, 2019.

Federal Deposit Insurance Corporation

**Valerie Best,**

*Assistant Executive Secretary.*

[FR Doc. 2019–13477 Filed 6–24–19; 8:45 am]

**BILLING CODE 6714–01–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 Interagency Policy Statement on Funding and Liquidity Risk Management (FR 4198; OMB No. 7100–0326).

**DATES:** Comments must be submitted on or before August 26, 2019.

**ADDRESSES:** You may submit comments, identified by *FR 4198,* 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 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 *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.

**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:* Interagency Policy Statement on Funding and Liquidity Risk Management.

*Agency form number:* FR 4198.

*OMB control number:* 7100–0326.

*Frequency:* Annually.

*Respondents:* Bank holding companies, savings and loan holding companies, state-licensed branches and agencies of foreign banks (other than insured branches), corporations organized or operating under sections 25 or 25A of the Federal Reserve Act (agreement corporations and Edge corporations), and state member banks (collectively, financial institutions).

*Estimated number of respondents:* Implementing recordkeeping, 30; ongoing recordkeeping, 4,789.

*Estimated average hours per response:* Implementing recordkeeping, 160 hours; ongoing recordkeeping, 32 hours.

*Estimated annual burden hours:* 158,048 hours.

*General description of report:* The Interagency Policy Statement on Funding and Liquidity Risk Management (Guidance) [1] states that financial institutions should develop and document liquidity risk management policies and procedures commensurate with the institution's complexity, risk profile, and scope of operations. Sections 3 and 6 of the Guidance provide that financial institutions should maintain such policies and procedures. Section 6 of the Guidance states that financial institutions should have a contingency funding plan (CFP) that sufficiently addresses potential adverse liquid events and emergency cash flow requirements, and section 34 of the Guidance states that the CFP should be documented.

*Proposed revisions:* The Board is proposing to revise the FR 4198 to account for all of the recordkeeping provisions set forth in the Guidance related to liquidity risk management policies, procedures, and assumptions, and CFPs. The FR 4198 currently does not account for the recordkeeping provisions related to CFPs and does not fully account for the recordkeeping provisions related to liquidity risk management policies, procedures, and assumptions.

*Legal authorization and confidentiality:* The recordkeeping provisions of the Guidance are authorized pursuant to sections 9(6), 25, and 25A of the Federal Reserve Act [2] (for state member banks, agreement corporations, and Edge corporations, respectively); section 5(c) of the Bank Holding Company Act [3] (for bank holding companies); section 10(b)(3) of the Home Owners' Loan Act [4] (savings and loan holding companies); and section 7(c)(2) of the International Banking Act [5] (state-licensed branches and agencies of foreign banks, other than insured branches). Because the recordkeeping provisions are contained within guidance, which is nonbinding, they are voluntary.[6] There are no reporting forms associated with this information collection.

Because these records would be maintained at each banking organization, the Freedom of Information Act (FOIA) would only be implicated if the Board obtained such records as part of the examination or supervision of a banking organization. In the event the records are obtained by the Board as part of an examination or supervision of a financial institution, this information may be considered confidential pursuant to exemption 8 of the FOIA, which protects information contained in ''examination, operating, or condition reports'' obtained in the bank supervisory process (5 U.S.C. 552(b)(8)). In addition, the information may also be kept confidential under exemption 4 for the FOIA, which protects ''commercial or financial information obtained from a person [that is] privileged or confidential'' (5 U.S.C. 552(b)(4)).

*Consultation outside the agency:* The Guidance was published jointly by the Board, the Office of the Comptroller of

[1] ''Interagency Policy Statement on Funding and Liquidity Risk Management,'' 75 FR 13656 (March 22, 2010). The Guidance was published jointly by the Board, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration.

[2] 12 U.S.C. 324, 602, and 625, respectively.

[3] 12 U.S.C. 1844(c).

[4] 12 U.S.C. 1467a(b)(3).

[5] 12 U.S.C. 3105(c)(2).

[6] *See* SR 18–5/CA 18–7: Interagency Statement Clarifying the Role of Supervisory Guidance (Sept. 11, 2018).

the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration. There has been no consultation outside of the Federal Reserve System with regard to the current proposal to extend the FR 4198 for three years, with revision.

Board of Governors of the Federal Reserve System, June 20, 2019.

**Michele Taylor Fennell,**

*Assistant Secretary of the Board.*

[FR Doc. 2019–13490 Filed 6–24–19; 8:45 am]

**BILLING CODE 6210–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–1147]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Preparing a Claim of Categorical Exclusion or an Environmental Assessment for Submission to the Center for Food Safety and Applied Nutrition

**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 provisions of our guidance document entitled ''Preparing a Claim of Categorical Exclusion or an Environmental Assessment for Submission to the Center for Food Safety and Applied Nutrition.''

**DATES:** Submit either electronic or written comments on the collection of information by August 26, 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 26, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 26, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

*Electronic Submissions*

Submit electronic comments in the following way:

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

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

*Written/Paper Submissions*

Submit written/paper submissions as follows:

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

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

*Instructions:* All submissions received must include the Docket No. FDA–2013–N–1147 for ''Preparing a Claim of Categorical Exclusion or an Environmental Assessment for Submission to the Center for Food Safety and Applied Nutrition.'' 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:** 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:** 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.

**Preparing a Claim of Categorical Exclusion or an Environmental Assessment for Submission to the Center for Food Safety and Applied Nutrition**

*OMB Control Number 0910–0541—Extension*

As an integral part of its decision making process, we are obligated under the National Environmental Policy Act of 1969 (NEPA) to consider the environmental impact of our actions, including allowing notifications for food contact substances to become effective and approving food additive petitions, color additive petitions, generally recognized as safe (GRAS) affirmation petitions, requests for exemption from regulation as a food additive, and actions on certain food labeling citizen petitions, nutrient content claims petitions, and health claims petitions. We have provided guidance that contains sample formats to help industry submit a claim of categorical exclusion or an Environmental Assessment (EA) to the Center for Food Safety and Applied Nutrition (CFSAN). The document entitled ''Preparing a Claim of Categorical Exclusion or an Environmental Assessment for Submission to the Center for Food Safety and Applied Nutrition'' identifies, interprets, and clarifies existing requirements imposed by statute and regulation, consistent with the Council on Environmental Quality regulations (40 CFR 1507.3). It consists of recommendations that do not themselves create requirements; rather, they are explanatory guidance for our own procedures in order to ensure full compliance with the purposes and provisions of NEPA.

The guidance provides information to assist in the preparation of claims of categorical exclusion and EAs for submission to CFSAN. The following questions are covered in this guidance: (1) What types of industry-initiated actions are subject to a claim of categorical exclusion? (2) What must a claim of categorical exclusion include by regulation? (3) What is an EA? (4) When is an EA required by regulation and what format should be used? (5) What are extraordinary circumstances? and (6) What suggestions does CFSAN have for preparing an EA? Although CFSAN encourages industry to use the EA formats described in the guidance because standardized documentation submitted by industry increases the efficiency of the review process, alternative approaches may be used if these approaches satisfy the requirements of the applicable statutes and regulations.

*Description of Respondents:* The likely respondents include businesses engaged in the manufacture or sale of food, food ingredients, and substances used in materials that come into contact with food.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| 21 CFR part environmental impact considerations | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| 25.15(a) & (d) (to cover CE's under 25.32(i)) | 47 | 1 | 47 | 8 | 376 |
| 25.15(a) & (d) (to cover CE's under 25.32(o)) | 1 | 1 | 1 | 8 | 8 |
| 25.15(a) & (d) (to cover CE's under 25.32(q)) | 3 | 1 | 3 | 8 | 24 |
| 25.40(a) & (c) EA's | 57 | 1 | 57 | 180 | 10,260 |
| Total | | | | | 10,668 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimates for respondents and numbers of responses are based on the annualized numbers of petitions and notifications qualifying for categorical exclusions (CE) listed under § 25.32(i) and (q) that we have received in the past 3 years. To avoid counting the burden attributed to § 25.32(o) as zero, we have estimated the burden for this categorical exclusion at one respondent making one submission a year for a total of one annual submission. The burden for submitting a categorical exclusion is captured under § 25.15(a) and (c).

To calculate the estimate for the hours per response values, we assumed that the information requested in this guidance for each of these three categorical exclusions is readily available to the submitter. For the information requested for the exclusion in § 25.32(i), we expect that submitter will need to gather information from appropriate persons in the submitter's company and to prepare this information for attachment to the claim for categorical exclusion. We believe that this effort should take no longer than 8 hours per submission. For the information requested for the categorical exclusions in § 25.32(o) and (q), the submitters will almost always merely need to copy existing documentation and attach it to the claim for categorical exclusion. We believe that collecting this information should also take no longer than 8 hours per submission.

For the information requested for the environmental assessments in § 25.40(a) and (c), we believe that submitters will submit an average of 57 environmental assessments annually. We estimate that each submitter will prepare an EA within 3 weeks (120 hours) and revise

the EA based on Agency comments (between 40 to 60 hours), for a total preparation time of 180 hours.

Based on a current review of the information collection, we have made no adjustments to the currently approved estimate.

Dated: June 19, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019–13434 Filed 6–24–19; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2019–N–0482]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Reporting Associated With New Animal Drug Applications and Veterinary Master Files

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Fax written comments on the collection of information by July 25, 2019.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0032. Also include the FDA docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

**Reporting Associated With New Animal Drug Applications (NADA) and Veterinary Master Files—21 CFR 514.1, 514.4, 514.5, 514.6, 514.8, 514.11, and 558.5**

*OMB Control Number 0910–0032—Extension*

Under section 512(b)(1) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360b(b)(1)), any person may file a new animal drug application (NADA) seeking our approval to legally market a new animal drug. Section 512(b)(1) of the FD&C Act sets forth the information required to be submitted in a NADA. Sections 514.1, 514.4, 514.6, 514.8, and 514.11 of our regulations (21 CFR 514.1, 514.4, 514.6, 514.8, and 514.11) further specify the information that the NADA must contain. The application must include safety and effectiveness data, proposed labeling, product manufacturing information, and where necessary, complete information on food safety (including microbial food safety) and any methods used to determine residues of drug chemicals in edible tissue from food producing animals. FDA Guidance for Industry #152 outlines a risk assessment approach for evaluating the microbial food safety of antimicrobial new animal drugs. We request that applicants utilize Form FDA 356V, as appropriate, to ensure efficient and accurate processing of information to support new animal drug approval.

Under section 512(b)(3) of the FD&C Act, any person intending to file a NADA or supplemental NADA or a request for an investigational exemption under section 512(j) of the FD&C Act is entitled to one or more conferences with us prior to making a submission. Section 514.5 of our regulations (21 CFR 514.5) describes the procedures for requesting, conducting, and documenting presubmission conferences. We have found that these meetings have increased the efficiency of the drug development and drug review processes. We encourage sponsors to submit data for review at the most appropriate and productive times in the drug development process. Rather than submitting all data for review as part of a complete application, we have found that the submission of data supporting discrete technical sections during the investigational phase of the new animal drug is the most appropriate and productive. This ''phased review'' of data submissions has created efficiencies for both us and the animal pharmaceutical industry.

Additionally, we have found that various uses of veterinary master files have increased the efficiency of the drug development and drug review processes for both us and the animal pharmaceutical industry. A veterinary master file is a repository for submission to FDA's Center for Veterinary Medicine of confidential detailed information about facilities, processes, or articles used in the manufacturing, processing, packaging, and storing of one or more veterinary drugs. The benefits of veterinary master files include confidential exchange of information with FDA, a process for reporting information outside of a NADA or an investigational new animal drug (INAD) file, as well as an opportunity for increased communication with FDA during early stages of product development. Respondents may choose to use veterinary master files to provide and organize confidential detailed information to the Agency. A holder of a veterinary master file may also authorize other parties to reference information in the veterinary master file without disclosing information in the file to those parties. Veterinary master files can be used as repositories for information that can be referenced in multiple submissions to the Agency, thus minimizing paperwork burden. Veterinary master files are already used by the animal pharmaceutical industry in support of information being submitted for NADAs, abbreviated new animal drug applications (ANADAs), INAD files, and generic investigational new animal drug (JINAD) files. In previous information collection requests, we have included the time necessary to compile and submit such information to veterinary master files within the burden estimates provided for applications and amended applications (for NADAs and INAD files) and abbreviated applications and amended abbreviated applications (for ANADAs and JINAD files), respectively. We are now combining the time necessary to compile and submit such information to veterinary master files within the burden estimates provided in this collection of information.

We are also developing new approaches to permit more complex uses of veterinary master files to facilitate the development of animal drug products. We expect respondents will want to use veterinary master files to submit information to us for review and consultation during all phases of animal drug product development (including product development that precedes the establishment of an INAD file or the submission of a NADA). This information could include information about processes, facilities, or articles used in the manufacturing, processing,

packaging, and storing of veterinary drugs and drug substances. Information submitted to FDA through a veterinary master file could also include drug characterization, methods, protocols, or other relevant information. In this request for OMB review, we seek approval of an increased use of veterinary master files by respondents to submit additional information to us for review and consultation during all phases of animal drug product development (including product development that precedes the establishment of an INAD file or the submission of a NADA). To account for an expected increase in reporting burden hours associated with the increased use of veterinary master files by respondents, we are separately estimating in table 1, row 10, the burden of the use of veterinary master files during all phases of product development (including product development that precedes the establishment of an INAD file or the submission of a NADA).

Finally, § 558.5(i) of our regulations (21 CFR 558.5(i)) describes the procedure for requesting a waiver of the labeling requirements of § 558.5(h) in the event that there is evidence to indicate that it is unlikely a new animal drug would be used in the manufacture of a liquid medicated feed.

The reporting associated with NADAs and related submissions is necessary to ensure that new animal drugs are in compliance with section 512(b)(1) of the FD&C Act. We use the information collected to review the data, labeling, and manufacturing controls and procedures to evaluate the safety and effectiveness of the proposed new animal drug.

*Description of Respondents:* Respondents include persons developing, manufacturing, and/or researching new animal drugs.

In the **Federal Register** of February 15, 2019 (84 FR 4479), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| 21 CFR section; activity | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| 514.1 & 514.6; applications and amended applications | 182 | 0.05 | 9 | 212 | 1,908 |
| 514.1(b)(8) and 514.8(c)(1) [2]; evidence to establish safety and effectiveness | 182 | 0.10 | 18 | 90 | 1,620 |
| 514.5(b), (d), (f); requesting presubmission conferences | 182 | 0.49 | 89 | 50 | 4,450 |
| 514.8(b); manufacturing changes to an approved application | 182 | 1.40 | 255 | 35 | 8,925 |
| 514.8(c)(1); labeling and other changes to an approved application | 182 | 0.05 | 9 | 71 | 639 |
| 514.8(c)(2) & (3); labeling and other changes to an approved application | 182 | 0.43 | 78 | 20 | 1,560 |
| 514.11; submission of data, studies and other information | 182 | 0.09 | 16 | 1 | 16 |
| 558.5(i); requirements for liquid medicated feed | 182 | 0.01 | 2 | 5 | 10 |
| Form FDA 356V | 182 | 2.92 | 531 | 5 | 2,655 |
| Use of veterinary master files during all phases of product development (including product development that precedes the establishment of an INAD file or the submission of an NADA) | 15 | 1 | 15 | 20 | 300 |
| Total | | | 1,022 | | 22,083 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] NADAs and supplements regarding antimicrobial animal drugs that use a recommended approach to assessing antimicrobial concerns as part of the overall pre-approval safety evaluation.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our previous estimates. However, as discussed, we have separately estimated the burden of the ''Use of veterinary master files during all phases of product development (including product development that precedes the establishment of an INAD file or the submission of an NADA)'' in table 1, line 10. We base our estimate of the total annual responses for the use of veterinary master files on such uses initiated during calendar year 2018. We base our estimate of the hours per response upon our experience with the respondents' use of veterinary master files. We estimate that the time it takes to compile information and submit it to a veterinary master file will vary from 1 to 50 hours depending on the complexity of the information; therefore, we are estimating on average the burden per response to be 20 hours. Accordingly, our estimated burden for the information collection reflects an overall increase of 124 hours and a corresponding increase of 14 responses.

Dated: June 19, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019–13430 Filed 6–24–19; 8:45 am]

BILLING CODE 4164–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2018–D–4534]**

### Reducing Microbial Food Safety Hazards in the Production of Seed for Sprouting: Draft Guidance for Industry; Availability

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

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing the availability of a draft guidance for industry entitled ''Reducing Microbial Food Safety Hazards in the Production of Seed for

Sprouting.'' The draft guidance document, when finalized, will make the sprout seed industry (seed growers, conditioners, packers, holders, suppliers, and distributors) aware of FDA's serious concern with the continuing outbreaks of foodborne illness associated with the consumption of raw and lightly-cooked sprouts and provide FDA's recommendations to firms throughout the production chain of seed for sprouting.

**DATES:** Submit either electronic or written comments on the draft guidance by August 26, 2019 to ensure that FDA considers your comment on the draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

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

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

*Written/Paper Submissions*

Submit written/paper submissions as follows:

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

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

*Instructions:* All submissions received must include the Docket No. FDA–2018–D–4534 for ''Reducing Microbial Food Safety Hazards in the Production of Seed for Sprouting: Draft Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

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

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Office of Food Safety, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

**FOR FURTHER INFORMATION CONTACT:** Patricia Homola, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1700.

**SUPPLEMENTARY INFORMATION:**

## I. Background

We are announcing the availability of a draft guidance for industry entitled ''Reducing Microbial Food Safety Hazards in the Production of Seed for Sprouting.'' The draft guidance, when finalized, will make the sprout seed industry (seed growers, conditioners, packers, holders, suppliers, and distributors) aware of our serious concern with the continuing outbreaks of foodborne illness associated with the consumption of raw and lightly-cooked sprouts and provide our recommendations to firms throughout the production chain of seed for sprouting. In the development of the draft guidance, we considered three documents related to food safety and hygienic production of seed for sprouting: (1) The Codex Code of Hygienic Practice for Fresh Fruits and Vegetables Annex II, Annex for Sprout Production (Ref. 1); (2) the International Sprout Growers Association—Institute for Food Safety and Health's ''U.S. Sprout Production Best Practices'' (Section 2. Raw Material Sourcing) (Ref. 2); and (3) the European Sprouted Seeds Association (ESSA) Hygiene Guideline for the Production of Sprouts and Seeds for Sprouting (Section 2. Production of Seeds) (Ref. 3). We have incorporated aspects of these documents that are consistent with our laws and regulations, as well as our existing policies.

We are issuing the draft guidance consistent with our good guidance practice regulation (21 CFR 10.115). The draft guidance, when finalized, will represent our current thinking on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternate approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

## II. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/FoodGuidances* or *https://www.regulations.gov.* Use the FDA website listed in the previous

sentence to find the most current version of the guidance.

### III. References

The following references are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *https://www.regulations.gov.* 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. Codex ''Code of Hygienic Practice for Fresh Fruits and Vegetables,'' CAC/RCP 53–2003, Annex II, Annex for Sprout Production, Revision 2010. Retrieved from *https://www.ifsh.iit.edu/sites/ifsh/files/departments/ssa/pdfs/codex2003_053e.pdf.*

2. International Sprout Growers Association—Institute for Food Safety and Health's ''U.S. Sprout Production Best Practices'' (Section 2. Raw Material Sourcing). Retrieved from *https://www.ifsh.iit.edu/us-sprout-industry-production-best-practices.*

3. Official Journal of the European Union, ''ESSA Hygiene Guideline for the Production of Sprouts and Seeds for Sprouting (2017/(220/03),'' (Section 2. Production of Seeds). Retrieved from *https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52017XX0708(01)&from=EN.*

Dated: June 19, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019–13433 Filed 6–24–19; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Lists of Designated Primary Medical Care, Mental Health, and Dental Health Professional Shortage Areas

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** This notice informs the public of the availability of the complete lists of all geographic areas, population groups, and facilities designated as primary medical care, mental health, and dental health professional shortage areas (HPSAs) as of May 1, 2019. The lists are available on HRSA's HPSAFind website.

**ADDRESSES:** Complete lists of HPSAs designated as of May 1, 2019, are available on the website at *https://data.hrsa.gov/topics/health-workforce/shortage-areas.* Frequently updated information on HPSAs is available at *https://data.hrsa.gov/tools/shortage-area.* Information on shortage designations is available at *https://bhw.hrsa.gov/shortage-designation.*

**FOR FURTHER INFORMATION CONTACT:** For further information on the HPSA designations listed on the website or to request additional designation, withdrawal, or reapplication for designation, please contact Janelle D. McCutchen, DHEd, MPH, CHES, Chief, Shortage Designation Branch, Division of Policy and Shortage Designation, Bureau of Health Workforce, HRSA, 5600 Fishers Lane, Room 11W14, Rockville, Maryland 20857, *sdb@hrsa.gov* or phone at (301) 594–5168.

**SUPPLEMENTARY INFORMATION:**

### Background

Section 332 of the Public Health Service (PHS) Act, 42 U.S.C. 254e, provides that the Secretary shall designate HPSAs based on criteria established by regulation. HPSAs are defined in section 332 to include (1) urban and rural geographic areas with shortages of health professionals, (2) population groups with such shortages, and (3) facilities with such shortages. Section 332 further requires that the Secretary annually publish lists of the designated geographic areas, population groups, and facilities. The lists of HPSAs are to be reviewed at least annually and revised as necessary.

Final regulations (42 CFR part 5) were published in 1980 and include the criteria for designating HPSAs. Criteria were defined for seven health professional types: Primary medical care, dental, psychiatric, vision care, podiatric, pharmacy, and veterinary care. The criteria for correctional facility HPSAs were revised and published on March 2, 1989 (54 FR 8735). The criteria for psychiatric HPSAs were expanded to mental health HPSAs on January 22, 1992 (57 FR 2473). Currently funded PHS Act programs use only the primary medical care, mental health, or dental HPSA designations.

HPSA designation offers potential access to federal assistance. Public or private nonprofit entities are eligible to apply for assignment of National Health Service Corps (NHSC) personnel to provide primary medical care, mental health, or dental health services in or to these HPSAs. NHSC health professionals enter into service agreements to serve in federally designated HPSAs. Entities with clinical training sites located in HPSAs are eligible to receive priority for certain residency training program grants administered by HRSA's Bureau of Health Workforce (BHW). Other federal programs also utilize HPSA designations. For example, under authorities administered by the Centers for Medicare and Medicaid Services, certain qualified providers in geographic area HPSAs are eligible for increased levels of Medicare reimbursement.

### Content and Format of Lists

The three lists of designated HPSAs are available on the HRSA Data Warehouse HPSAFind website and include a snapshot of all geographic areas, population groups, and facilities that were designated HPSAs as of May 1, 2019. This notice incorporates the most recent annual reviews of designated HPSAs and supersedes the HPSA lists published in the **Federal Register** on July 2, 2018 (**Federal Register**/Vol. 83, No. 127/Monday, July 2, 2018/Notices 30941).

In addition, all Indian Tribes that meet the definition of such Tribes in the Indian Health Care Improvement Act of 1976, 25 U.S.C. 1603(d), are automatically designated as population groups with primary medical care and dental health professional shortages. Further, the Health Care Safety Net Amendments of 2002 provides eligibility for automatic facility HPSA designations for all federally qualified health centers (FQHCs) and rural health clinics that offer services regardless of ability to pay. Specifically, these entities include FQHCs funded under section 330 of the PHS Act, FQHC Look-Alikes, and Tribal and urban Indian clinics operating under the Indian Self-Determination and Education Act of 1975 (25 U.S.C. 450) or the Indian Health Care Improvement Act. All of these entities identified by May 1, 2019 are included on this listing. Absence from this list does not exclude them from HPSA designation; facilities eligible for automatic designation are included in the database when they are identified.

Each list of designated HPSAs is arranged by state. Within each state, the list is presented by county. If only a portion (or portions) of a county is (are) designated, a county is part of a larger designated service area, or a population group residing in a county or a facility located in the county has been designated, the name of the service area, population group, or facility involved is

listed under the county name. A county that has a whole county geographic or population group HPSA is indicated by the phrase ''County'' following the county name.

**Development of the Designation and Withdrawal Lists**

Requests for designation or withdrawal of a particular geographic area, population group, or facility as a HPSA are received continuously by BHW. Under cooperative agreements between HRSA and the 54 state and territorial Primary Care Offices (PCOs), PCOs conduct needs assessments and submit applications to HRSA to designate HPSAs. BHW refers requests that come from other sources to PCOs for review. In addition, interested parties, including Governors, State Primary Care Associations, and state professional associations, are notified of requests so that they may submit their comments and recommendations.

BHW reviews each recommendation for possible addition, continuation, revision, or withdrawal. Following review, BHW notifies the appropriate agency, individuals, and interested organizations of each designation of a HPSA, rejection of recommendation for HPSA designation, revision of a HPSA designation, and/or advance notice of pending withdrawals from the HPSA list. Designations (or revisions of designations) are effective as of the date on the notification from BHW and are updated daily on the HPSAFind website. The effective date of a withdrawal will be the next publication of a notice regarding the list in the **Federal Register**.

Dated: June 17, 2019.

**George Sigounas,**

*Administrator.*

[FR Doc. 2019–13395 Filed 6–24–19; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

**[Docket No. USCG–2019–0251]**

## Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0038

**AGENCY:** Coast Guard, DHS.

**ACTION:** Thirty-day notice requesting comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0038, Plan Approval and Records for Tank Vessels, Passenger Vessels, Cargo and Miscellaneous Vessels, Mobile Offshore Drilling Units, Nautical School Vessels and Oceanographic Research Vessels; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

**DATES:** Comments must reach the Coast Guard and OIRA on or before July 25, 2019.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number [USCG–2019–0251] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email: dhsdeskofficer@omb.eop.gov.*

(2) *Mail:* OIRA, 725 17th Street NW, Washington, DC 20503, attention Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–612), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR AVE SE, STOP 7710, WASHINGTON, DC 20593–7710.

**FOR FURTHER INFORMATION CONTACT:** Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

**SUPPLEMENTARY INFORMATION:**

**Public Participation and Request for Comments**

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection. The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. Consistent with the requirements of Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, and Executive Order 13777, Enforcing the Regulatory Reform Agenda, the Coast Guard is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents. These comments will help OIRA determine whether to approve the ICR referred to in this notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2019–0251], and must be received by July 25, 2019.

**Submitting Comments**

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://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.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB notice of

Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0038.

**Previous Request for Comments**

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (84 FR 13943, April 8, 2019) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collections.

**Information Collection Request**

*Title:* Plan Approval and Records for Tank Vessels, Passenger Vessels, Cargo and Miscellaneous Vessels, Mobile Offshore Drilling Units, Nautical School Vessels and Oceanographic Research Vessels—46 CFR subchapters D, H, I, I–A, R and U.

*OMB Control Number:* 1625–0038.

*Summary:* This collection requires the shipyard, designer or manufacturer for the construction of a vessel to submit plans, technical information and operating manuals to the Coast Guard.

*Need:* Under 46 U.S.C. 3301 and 3306, the Coast Guard is responsible for enforcing regulations promoting the safety of life and property in marine transportation. The Coast Guard uses this information to ensure that a vessel meets the applicable standards for construction, arrangement and equipment under 46 CFR subchapters D, H, I, I–A, R and U.

*Forms:* None.

*Respondents:* Shipyards, designers, and manufacturers of certain vessels.

*Frequency:* On occasion.

*Hour Burden Estimate:* The estimated burden has decreased from 6,671 hours to 3,673 hours a year, due to a decrease in the estimated annual number of responses.

*Authority:* The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: June 18, 2019.

**James D. Roppel,**

*Chief, U.S. Coast Guard, Office of Information Management.*

[FR Doc. 2019–13312 Filed 6–24–19; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0068]**

### Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Registration for Classification as a Refugee

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for 60 days until August 26, 2019.

**ADDRESSES:** All submissions received must include the OMB Control Number 1615–0068 in the body of the letter, the agency name and Docket ID USCIS–2007–0036. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2007–0036;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529–2140.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

**SUPPLEMENTARY INFORMATION:**

**Comments**

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0036 in the search box. 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 consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Registration for Classification as a Refugee.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–590; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The Form I–590 is the primary document in all refugee case files and becomes part of the applicant's A-file. It is the application form by which a person seeks refugee classification and resettlement in the United States. It documents an applicant's legal testimony (under oath) as to his or her identity and claim to refugee status, as well as other pertinent information including marital status, number of children, military service, organizational memberships, and violations of law. In addition to being the application form submitted by a person seeking refugee classification, Form I–590 is used to document that an applicant was interviewed by United States Citizenship and Immigration Services (USCIS) and record the decision by the USCIS Officer to approve or deny the applicant for classification as a refugee. Regardless of age, each person included in the case must have his or her own Form I–590. Refugees applying to CBP for admission must have a stamped I–590 in their travel packet in order to gain admission as a refugee. They do not have refugee status until they are admitted by CBP.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–590 is 50,000 and the estimated hour burden per response is 3.25 hours. The estimated total number of respondents for the information collection of Request for Review is 1,500 and the estimated hour burden per response is 1 hour. The estimated total number of respondents for the information collection of DNA Evidence is 100 and the estimated hour burden per response is 2 hours. The estimated total number of respondents for the information collection of Biometrics is 51,600 and the estimated hour burden per response is 0.33 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 181,228 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $12,000.

Dated: June 19, 2019.

**Samantha L. Deshommes,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2019–13394 Filed 6–24–19; 8:45 am]

**BILLING CODE 9111–97–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R4–ES–2019–N067; FXES11140400000–190–FF04E00000]**

### Endangered Species; Recovery Permit Applications

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

**ACTION:** Notice of receipt of permit applications; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation or survival of endangered species under the Endangered Species Act of 1973, as amended. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

**DATES:** We must receive written data or comments on the applications by July 25, 2019.

**ADDRESSES:**

*Reviewing Documents:* Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act. Submit a request for a copy of such documents to Karen Marlowe (see **FOR FURTHER INFORMATION CONTACT**).

*Submitting Comments:* If you wish to comment, you may submit comments by one of the following methods:

- *U.S. mail or hand-delivery:* U.S. Fish and Wildlife Service Regional Office, Ecological Services, 1875 Century Boulevard, Atlanta, GA 30345 (Attn: Karen Marlowe, Permit Coordinator).
- *Email: permitsR4ES@fws.gov.* Please include your name and return address in your email message. If you do not receive a confirmation from the U.S. Fish and Wildlife Service that we have received your email message, contact us directly at the telephone number listed in **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:** Karen Marlowe, Permit Coordinator, 404–679–7097 (telephone), *karen_marlowe@fws.gov* (email), or 404–679–7081 (fax). Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

**SUPPLEMENTARY INFORMATION:** We invite review and comment from local, State, and Federal agencies and the public on applications we have received for permits to conduct certain activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17. With some exceptions, the ESA prohibits activities that constitute take of listed species unless a Federal permit is issued that allows such activities. The ESA's definition of ''take'' includes hunting, shooting, harming, wounding, or killing, and also such activities as pursuing, harassing, trapping, capturing, or collecting.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. These activities often include such prohibited actions as capture and collection. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

#### Permit Applications Available for Review and Comment

Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild. The ESA requires that we invite public comment before issuing these permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies.

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.

| Permit application No. | Applicant | Species/numbers | Location | Activity | Type of take | Permit action |
|---|---|---|---|---|---|---|
| TE 30127D–0 | National Park Service, Asheville, NC. | Cumberland elktoe (*Alasmidonta atropurpurea*), spectaclecase (*Cumberlandia monodonta*), dromedary pearlymussel (*Dromus dromas*), Cumberlandian combshell (*Epioblasma brevidens*), oyster mussel (*Epioblasma capsaeformis*), tan riffleshell (*Epioblasma walkeri*), pink mucket (*Lampsilis abrupta*), Alabama lampmussel (*Lampsilis virescens*), littlewing pearlymussel (*Pegias fabula*), clubshell (*Pleurobema clava*), fluted kidneyshell (*Ptychobranchus subtentum*), and Cumberland bean (*Villosa trabalis*). | Big South Fork National River and Recreation Area and Obed Wild and Scenic River, Kentucky and Tennessee. | Presence/absence surveys. | Capture, handle, identify, and release. | New. |
| TE 33227D–0 | Jason Wisniewski, Mt. Juliet, TN. | Cumberland elktoe (*Alasmidonta atropurpurea*), Appalachian elktoe (*Alasmidonta raveneliana*), fat threeridge (*Amblema neislerii*), spectaclecase (*Cumberlandia monodonta*), fanshell *(Cyprogenia stegaria*), dromedary pearlymussel (*Dromus dromas*), Altamaha spinymussel (*Elliptio spinosa*), Chipola slabshell (*Elliptio chipolaensis*), Purple bankclimber (*Elliptoideus sloatianus*), Cumberlandian combshell (*Epioblasma brevidens*), oyster mussel (*Epioblasma capsaeformis*), Curtis pearlymussel (*Epioblasma florentina curtisii*), yellow blossom (*Epioblasma florentina florentina*), tan riffleshell (*Epioblasma florentina walkeri*), upland combshell (*Epioblasma metastriata*), purple cat's paw (*Epioblasma obliquata obliquata*), white catspaw (*Epioblasma obliquata perobliqua*), southern acornshell (*Epioblasma othcaloogensis*), southern combshell (*Epioblasma penita*), green blossom (*Epioblasma torulosa gubernaculum*), northern riffleshell (*Epioblasma torulosa rangiana*), tubercled blossom (*Epioblasma torulosa torulosa*), snuffbox mussel (*Epioblasma triquetra*), turgid blossom (*Epioblasma turgidula*), shiny pigtoe (*Fusconaia cor*), finerayed pigtoe (*Fusconaia cuneolus*), cracking pearlymussel (*Hemistena lata*), pink mucket (*Lampsilis abrupta*), finelined pocketbook (*Lampsilis altilis*), shinyrayed pocketbook (*Lampsilis subangulata*), Alabama lampmussel (*Lampsilis virescens*), birdwing pearlymussel (*Lemiox rimosus*) Alabama moccasinshell (*Medionidus acutissimus*), Coosa moccasinshell (*Medionidus parvulus*), Gulf moccasinshell (*Medionidus penicillatus*), Ochlockonee moccasinshell (*Medionidus simpsonianus*), Suwannee moccasinshell (*Medionidus walkeri*), ring pink (*Obovaria retusa*), littlewing pearlymussel (*Pegias fabula*), white wartyback (*Plethobasus cicatricosus*), orangefoot pimpleback (*Plethobasus cooperianus*), sheepnose mussel (*Plethobasus cyphyus*), clubshell (*Pleurobema clava*), southern clubshell (*Pleurobema decisum*), southern pigtoe (*Pleurobema georgianum*), Cumberland pigtoe (*Pleurobema gibberum*), Georgia pigtoe (*Pleurobema hanleyianum*), rough pigtoe (*Pleurobema plenum*), oval pigtoe (*Pleurobema pyriforme*), slabside pearlymussel (*Pleuronaia dolabelloides*), triangular kidneyshell (*Ptychobranchus greenii*), fluted kidneyshell (*Ptychobranchus subtentum*), rabbitsfoot (*Quadrula cylindrica cylindrica*), rough rabbitsfoot (*Quadrula cylindrica strigillata*), Cumberland monkeyface (*Quadrula intermedia*), Appalachian monkeyface (*Quadrula sparsa*), pale lilliput (*Toxolasma cylindrellus*), rayed bean (*Villosa fabalis*), purple bean (*Villosa perpurpurea*), and Cumberland bean (*Villosa trabalis*). | Alabama, Florida, Georgia, Kentucky, North Carolina, Tennessee, and Virginia. | Presence/absence surveys. | Capture, handle, identify, mark, and release. | New. |
| TE 087191–4 | Sandhills Ecological Institute, Southern Pines, NC. | Red-cockaded woodpecker (*Picoides borealis*) | North Carolina, South Carolina. | Research on avian keratin disorder. | Buccal and cloacal swabbing and salvage of dead specimens. | Amendment. |
| TE 64393C–1 | Vanasse Hangen Brustlin, Inc., Raleigh, NC. | Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*). | Kansas, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, and Wyoming. | Presence/absence surveys and population monitoring. | Capture with mist nets, handle, identify, band, and radio-tag. | Amendment. |
| TE 88778B–1 | John Lamb, Arnold Air Force Base, TN. | Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), and northern long-eared bat (*Myotis septentrionalis*). | Tennessee | Presence/absence surveys and population monitoring. | Enter hibernacula or maternity roost caves, capture with mist nets or harp traps, handle, identify, band, radio-tag, collect hair samples, light-tag, wing-punch, and salvage. | Renewal. |

| Permit application No. | Applicant | Species/numbers | Location | Activity | Type of take | Permit action |
|---|---|---|---|---|---|---|
| TE 063179–7 ..... | Linda Edwards, Atlanta, GA. | Mussels: Cumberland elktoe (*Alasmidonta atropurpurea*), Appalachian elktoe (*Alasmidonta raveneliana*), spectaclecase (*Cumberlandia monodonta*), fanshell (*Cyprogenia stegaria*), dromedary pearlymussel (*Dromas dromas*), Cumberland clubshell (*Epioblasma brevidens*), oyster mussel (*Epioblasma capsaeformis*), yellow blossom (*Epioblasma florentina florentina*), tan riffleshell (*Epioblasma florentina walkeri*), upland combshell (*Epioblasma metastriata*), southern acornshell (*Epioblasma othcaloogensis*), green blossom (*Epioblasma torulosa gubernaculum*), tubercled blossom (*Epioblasma torulosa torulosa*), snuffbox mussel (*Epioblasma triquetra*), turgid blossom (*Epioblasma turgidula*), shiny pigtoe (*Fusconaia cor*), finerayed pigtoe (*Fusconaia cuneolus*), cracking pearly mussel (*Hemistena lata*), pink mucket (*Lampsilis abrupta*), finelined pocketbook (*lampsilis altilis*), Alabama lampmussel (*Lampsilis virescens*), birdwing pearly mussel (*Lemiox rimosus*), Alabama moccasinshell (*Medionidus acutissimus*), Coosa moccasinshell (*Medionidus parvulus*), ring pink (*Obovaria retusa*), littlewing pearlymussel (*Pegias fabula*), white wartyback (*Plethobasus cicatricosus*), orangefoot pimpleback (*Plethobasus cooperianus*), sheepnose mussel (*Plethobasus cyphyus*), clubshell (*Pleurobema clava*), southern clubshell (*Pleurobema decisum*), southern pigtoe (*Pleurobema georgianum*), Georgia pigtoe (*Pleurobema hanleyianum*), Cumberland pigtoe (*Pleurobema gibberum*), ovate clubshell (*Pleurobema perovatum*), rough pigtoe (*Pleurobema plenum*), slabside pearlymussel (*Pleurnaia dollabelloides*), fat pocketbook (*Potamilis capax*), triangular kidneyshell (*Ptychobranchus greenii*), fluted kidneyshell (*Ptychobranchus subtentum*), rabbitsfoot (*Quadrula cylindrica cylindrica*), rough rabbitsfoot (*Quadrula cylindrica strigillata*), winged mapleleaf (*Quadrula fragosa*), Cumberland monkeyface (*Quadrula intermedia*), Appalachian monkeyface (*Quadrula sparsa*), pale lilliput (*Toxolasma cylindrellus*), rayed bean (*Villosa fabalis*), purple bean (*Villosa perpurpurea*), Cumberland bean (*Villosa trabalis*);. | | | | |
| | | Crayfish: Nashville crayfish (*Orconectes shoupi*); Fish: Laurel dace (*Chrosomus saylori*), blue shiner (*Cyprinella caerulaea*), bluemask darter (*Etheostoma akatulo*), Okaloosa darter (*Etheostoma okaloosae*), duskytail darter (*Etheostoma percnurum*), Cumberland darter (*Etheostoma susanae*), trispot darter (*Etheostoma trisella*), boulder darter (*Etheostoma wapiti*), smoky madtom (*Noturus baileyi*), chucky madtom (*Noturus crypticus*), pygmy madtom (*Noturus stanauli*), amber darter (*Percina antesella*), goldline darter (*Percina aurolineata*), Conasauga logperch (*Percina jenkinsi*), snail darter (*Percina tanasi*), blackside dace (*Phoxinus cumberlandensis*), and Snail: Anthony's riversnail (*Athearnia anthonyi*). | Florida, Georgia, North Carolina, South Carolina, and Tennessee. | Presence/absence surveys. | Capture, handle, identify, and release. | Amendment. |
| TE 02200B–1 ..... | Atlanta Botanical Garden, Atlanta, GA. | *Lepanthes eltoroensis* (NCN) ..... | El Yunque National Forest, Puerto Rico. | Long-term storage and artificial propagation. | Collect seeds ..... | Amendment. |

## Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

**Franklin Arnold,**

*Acting Assistant Regional Director, Ecological Services, Southeast Region.*

[FR Doc. 2019–13435 Filed 6–24–19; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

**[190A2100DD/AAKC001030/ A0A501010.999900 253G; OMB Control Number 1076–0141]**

## Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Water Request

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA) are proposing to renew an information collection with revisions.

**DATES:** Interested persons are invited to submit comments on or before July 25, 2019.

**ADDRESSES:** Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to Yulan Jin, Chief, Division of Water and Power, Office of Trust Services, Mail Stop 4655—MIB, 1849 C Street NW, Washington, DC 20240; telephone: (202) 219–0941; or by email to *yulan.jin@bia.gov.* Please reference OMB Control Number 1076–0141 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Yulan Jin by email at *yulan.jin@bia.gov,* or by telephone at

(202) 219–0941. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on April 4, 2019 (84 FR 13311). No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the BIA; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BIA enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BIA minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be 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 BIA owns, operates, and maintains 17 irrigation projects that provide a service to the end user. To properly bill for the services provided, the BIA must collect customer information to identify the individual responsible for repaying the government the costs of delivering the service; determine eligibility for waiver of fees; and determine designation of irrigable lands as assessable or non-assessable. Additional information necessary for providing the service is the location of the service delivery and the number of serviced acres. The Debt Collection Improvement Act of 1996 (DCIA) requires that certain information be collected from individuals and businesses doing business with the government. This information includes the taxpayer identification number for possible future use to recover delinquent debt. To implement the DCIA requirement to collect customer information, the BIA has included a section concerning the collection of information in its regulations governing its irrigation projects (25 CFR 171).

*Title of Collection:* Water Request.

*OMB Control Number:* 1076–0141.

*Form Number:* BIA–DWP-Irr-101; BIA–DWP-Irr-102; BIA–DWP-Irr-103; BIA–DWP-Irr-104; BIA–DWP-Irr-105.

*Type of Review:* Revision of a currently approved collection.

*Respondents/Affected Public:* Individuals.

*Total Estimated Number of Annual Respondents:* 13,438.

*Total Estimated Number of Annual Responses:* 35,941.

*Estimated Completion Time per Response:* Varies from .2 to 6 hours.

*Total Estimated Number of Annual Burden Hours:* 17,981.

*Respondent's Obligation:* Required to Obtain or Retain a Benefit.

*Frequency of Collection:* On occasion.

*Total Estimated Annual Nonhour Burden Cost:* $0.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

**Elizabeth K. Appel,**

*Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.*

[FR Doc. 2019–13398 Filed 6–24–19; 8:45 am]

BILLING CODE 4337–15–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[190A2100DD/AAKC001030/A0A501010.999900 253G; OMB Control Number 1076–0021]**

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Electric Power Service Application

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA) are proposing to renew an information collection with revisions.

**DATES:** Interested persons are invited to submit comments on or before July 25, 2019.

**ADDRESSES:** Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to Yulan Jin, Chief, Division of Water and Power, Office of Trust Services, Mail Stop 4620—MIB, 1849 C Street NW, Washington, DC 20240; telephone: (202) 219–0941; or by email to *yulan.jin@bia.gov.* Please reference OMB Control Number 1076–0021 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Yulan Jin by email at *yulan.jin@bia.gov,* or by telephone at (202) 219–0941. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on April 19, 2019 (84 FR 16530). No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the BIA; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BIA enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BIA minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be 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 BIA owns, operates, and maintains three electric power utilities that provide a service to the end user, pursuant to 25 CFR 175 (Indian Electric Power Utilities). The BIA must collect customer information to identify the individual responsible for repaying the government its costs for delivering the service and bill for those costs. The BIA must also collect information to identify the location of the service delivery (*i.e.,* electrical hook-up). In addition, the Debt Collection Improvement Act of 1996 (DCIA), 31 U.S.C. 3701–3733 requires that certain information be collected from individuals and businesses doing business with the government. This information includes the taxpayer identification number for possible future use to recover delinquent debt.

*Title of Collection:* Electric Power Service Application.

*OMB Control Number:* 1076–0021.

*Form Number:* Electric Service Application.

*Type of Review:* Revision of a currently approved collection.

*Respondents/Affected Public:* Individual Indians and Indian Tribes.

*Total Estimated Number of Annual Respondents:* 1,300.

*Total Estimated Number of Annual Responses:* 1,300.

*Estimated Completion Time per Response:* 30 minutes.

*Total Estimated Number of Annual Burden Hours:* 650.

*Respondent's Obligation:* Required to Obtain a Benefit.

*Frequency of Collection:* On occasion.

*Total Estimated Annual Nonhour Burden Cost:* $0.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

**Elizabeth K. Appel,**

*Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.*

[FR Doc. 2019–13399 Filed 6–24–19; 8:45 am]

**BILLING CODE 4337–15–P**

## DEPARTMENT OF THE INTERIOR

## National Park Service

**[NPS–WASO–NRNHL–DTS#–28222; PPWOCRADI0, PCU00RP14.R50000]**

## National Register of Historic Places; Notification of Pending Nominations and Related Actions

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The National Park Service is soliciting comments on the significance of properties nominated before June 8, 2019, for listing or related actions in the National Register of Historic Places.

**DATES:** Comments should be submitted by July 10, 2019.

**ADDRESSES:** Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

**SUPPLEMENTARY INFORMATION:** The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before June 8, 2019. Pursuant to Section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

**ARIZONA**

**Maricopa County**

O'Connor, Sandra Day, House, 1230 N. College Ave., Tempe, SG100004185

**Yavapai County**

Fleury's Addition Historic District (Boundary Increase), (Prescott Territorial Buildings MRA), 527 W. Gurley St., Prescott, BC100004184

**CALIFORNIA**

**Butte County**

Mountain House Historic District, 13465 Oroville-Quincy Hwy., Mountain House, SG100004195

**Los Angeles County**

Bank of Italy Building, 649 S. Olive St., Los Angeles, SG100004191

**Santa Clara County**

Gilroy Southern Pacific Railroad Depot, 7250 Monterey St., Gilroy, SG100004192

**COLORADO**

**Jefferson County**

Shaffer, John C., Barn, 14422 W. Ken Caryl Ave., Littleton vicinity, SG100004188

**Larimer County**

Bennett House, 816 W. Mountain Ave., Fort Collins, SG100004187

**Prowers County**

Atchison, Topeka and Santa Fe Railway Passenger Depot, (Railroads in Colorado, 1858–1948 MPS), 109 E. Beech St., Lamar, MP100004186

**DISTRICT OF COLUMBIA**

**District of Columbia**

District of Columbia Municipal Center and Plaza, 300 Indiana Ave. NW (301 C St. NW), Washington, SG100004189

**KANSAS**

**Atchison County**

Atchison YMCA, 325 Commercial St., Atchison, SG100004203

**Brown County**

Fete Apartments, 205 E. 7th St., Horton, SG100004202

**Douglas County**

Klock's Grocery & Independent Laundry, (Lawrence, Kansas MPS), 900 Mississippi St., Lawrence, MP100004200

**Gray County**

Cimarron City Jail, East Ave. D, Cimarron, SG100004201

**Lincoln County**

Lincoln High School, (Public Schools of Kansas MPS), 700 S. 4th St., Lincoln, MP100004204

**Wyandotte County**

Brotherhood Block, 753 State Ave., & 754–756 Minnesota Ave., Kansas City, SG100004198

Kansas City, Kansas YMCA Building, 900 N. 8th St., Kansas City, SG100004199

**WISCONSIN**

**La Crosse County**

Loeffler, Otto and Ida, House, 1603 Main St., La Crosse, SG100004206

An owner objection received for the following resources:

**CALIFORNIA**

**Alameda County**

MacGregor Building, The, 1389, 1391, 1393, and 1395 Solano Ave.; and 856 Carmel Ave., Albany, SG100004193

**Santa Barbara County**

Mission Creek Bridge, (Highway Bridges of California MPS), Mission Canyon Rd. 0.15 mi. NE of Alameda Padre Serra, Santa Barbara, MP100004194

An additional documentation has been received for the following resource:

**ARKANSAS**

**Crawford County**

Muxen Building, 22733 N. US 71, Winslow vicinity, AD100003986

**Authority:** Section 60.13 of 36 CFR part 60.

Dated: June 14, 2019.

**Christopher Hetzel,**

*Acting Chief, National Register of Historic Places/National Historic Landmarks Program.*

[FR Doc. 2019–13443 Filed 6–24–19; 8:45 am]

**BILLING CODE 4312–52–P**

## DEPARTMENT OF THE INTERIOR

## National Park Service

**[NPS–WASO–NRNHL–DTS#–28251; PPWOCRADI0, PCU00RP14.R50000]**

## National Register of Historic Places; Notification of Pending Nominations and Related Actions

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The National Park Service is soliciting comments on the significance of properties nominated before June 15, 2019, for listing or related actions in the National Register of Historic Places.

**DATES:** Comments should be submitted by July 10, 2019.

**ADDRESSES:** Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

**SUPPLEMENTARY INFORMATION:** The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before June 15, 2019. Pursuant to Section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

**COLORADO**

**Adams County**

St. Stephen's Lutheran Church, 10828 Huron St., Northglenn, SG100004209

**Mineral County**

Wagon Wheel Gap Hot Springs Resort, 1 Goose Creek Rd., Creede, SG100004210

**Montrose County**

Fetz-Keller Ranch Headquarters, 61801 CO 90, Montrose, SG100004211

**IOWA**

**Boone County**

Des Moines Township #7, 843 R Ave., Boone vicinity, SG100004212

**KENTUCKY**

**Bullitt County**

Louisville to Bardstown Turnpike Milestones and Roadbed, Along and near US 31E from Louisville to Bardstown, Louisville, SG100004215

**NEW YORK**

**New York County**

East Harlem Historic District, Generally E. 111th–120th Sts., Park, Lexington, Pleasant, 1st–3rd Aves., New York, SG100004218

**Suffolk County**

Sag Harbor Hills, Azurest, and Ninevah Beach Subdivisions Historic District, Roughly Richards Dr., Hemstead St., Lincoln St., Harding Terr., & Terry Dr. Sag Harbor, SG100004217

**OHIO**

**Richland County**

Downtown Mansfield Historic District, Roughly bounded by Fifth St., Diamond St., Second St., and Mulberry St., Mansfield, SG100004214

**Authority:** Section 60.13 of 36 CFR part 60.

Dated: June 18, 2019.

**Kathryn G. Smith,**

*Acting Chief, National Register of Historic Places/National Historic Landmarks Program.*

[FR Doc. 2019–13444 Filed 6–24–19; 8:45 am]

**BILLING CODE 4312–52–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–1163]**

## Certain Light-Emitting Diode Products, Systems, and Components Thereof (I); Institution of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 30, 2019, under section 337 of the Tariff Act of 1930, as amended, on behalf of Lighting Science Group Corporation of Cocoa Beach, Florida; Healthe, Inc. of Cocoa Beach, Florida; and Global Value Lighting, LLC of West Warwick, Rhode Island. An amended complaint was filed on May 20, 2019. A supplement to the amended complaint was filed on June 11, 2019. The complaint, as amended, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain light-emitting diode products, systems, and components thereof by reason of infringement of certain claims of U.S. Patent No. 7,098,483 (''the '483 Patent''); U.S. Patent No. 7,095,053 (''the '053 Patent''); U.S. Patent No. 8,506,118 (''the '118 Patent''); U.S. Patent No. 7,528,421 (''the '421 Patent''); U.S. Patent No. 8,674,608 (''the '608 Patent''); U.S. Patent No. 8,201,968 (''the '968 Patent''); and U.S. Patent No. 8,967,844 (''the '844 Patent''). The complaint, as amended, further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complaint, as amended, also alleges violations of section 337 based on the importation into the United States, and in the sale of, certain light-emitting diode products, systems, and components thereof by reason of false advertising, the threat of effect of which is to destroy or substantially injure an industry in the United States.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

**ADDRESSES:** The complaint, as amended, except for any confidential information contained therein, is 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, Room 112, Washington, DC 20436, telephone (202) 205–2000.

Hearing impaired individuals are advised that information on this matter can be obtained 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 at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Katherine Hiner, Office of Docket Services, U.S. International Trade Commission, telephone (202) 205–1802.

**SUPPLEMENTARY INFORMATION:**

*Authority:* The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2018).

*Scope of Investigation:* Having considered the complaint, as amended, the U.S. International Trade Commission, on June 19, 2019, *ordered that*—

(1) Pursuant to section 210.10(a)(6) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(a)(6), two separate investigations be instituted based on the amended complaint to further efficient adjudication, one of which is instituted by this notice of investigation, and that this decision shall not preclude the presiding Administrative Law Judge from further severing the investigation pursuant to section 210.14(h) of the Commission's Rules of Practice and Procedure, 19 CFR 210.14(h), if appropriate;

(2) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (3) by reason of infringement of one or more of claims 11 and 14–16 of the '483 patent; claims 1–7, 11–22, and 26–30 of the '053 patent; claims 1, 2, 6, 7, and 10 of the '421 patent; claims 1, 2, 5, 10, 12, 14, 15, 17, and 18 of the '118 patent; and claims 1, 2, 6, 12, 13, 16, 19–22, 24, 28, and 37 of the '608 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(3) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''(1) LED packages and assemblies; (2) LED luminaires; and (3) connected 'smart' LED lighting systems and components thereof'';

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Lighting Science Group Corporation, 801 N. Atlantic Avenue, Cocoa Beach, FL 32931

Healthe, Inc., 801 N. Atlantic Avenue, Cocoa Beach, FL 32931

Global Value Lighting, LLC, 1350 Division Road, Suite 204, West Warwick, RI 02893

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the amended complaint is to be served:

Nichia Corporation, 491 Oka, Kaminaka-Cho, Anan-Shi, Tokushima 774–8601, Japan

Nichia America Corporation, 48561 Alpha Drive, Suite 100, Wixom, Michigan 48393

Cree, Inc., 4600 Silicon Drive, Durham, North Carolina 27703

Cree Hong Kong, Limited, 18 Science Park East Avenue, Hong Kong Science Park, Shatin, New Territories, Hong Kong

Cree Huizhou Solid State Lighting Co. Ltd., No. 32 Zhong Kai High, Tech Development Park 830000, Huizhou, Guangdong 516006 China

OSRAM GmbH, Marcel-Breuer-Strasse 6, 80807, Munich, Germany

OSRAM Licht AG, Marcel-Breuer-Strasse 6, 80807, Munich, Germany

OSRAM Opto Semiconductors GmbH, Leibnizstr. 4, 93055 Regensburg, Germany

OSRAM Opto Semiconductors, Inc., 1150 Kifer Road, Suite 100, Sunnyvale, California 94086

Lumileds Holding B.V., The Base Building B, 5th Floor, Evert van de Beeksttraat 1–107, 1118 CN Schipol, Netherlands

Lumileds, LLC, 370 W. Trimble Road, San Jose, CA 95131

Signify N.V. (f/k/a Philips Lighting N.V.), High Tech Campus 45, 5656 AE Eindhoven, Netherlands

Signify North America Corporation, (f/k/a Philips Lighting North America Corporation), 200 Franklin Square Drive, Somerset, New Jersey 08873

MLS Co., Ltd., No. 1 MLS Avenue, Xiaolan Town, Zhongshan City, China 528415

LEDVANCE GmbH, Parkring 29–33, 85748 Garching, Germany

LEDVANCE LLC, 200 Ballardvale Street, Wilmington, Massachusetts 01887

General Electric Company, 41 Farnsworth Street, Boston, Massachusetts 02210

Consumer Lighting (U.S.), LLC, (d/b/a GE Lighting, LLC), 1975 Noble Road, Cleveland, Ohio 44112

Current Lighting Solutions, LLC, 1975 Noble Road, Building 338, Nela Park, Cleveland, Ohio 44112

Acuity Brands, Inc., 1170 Peachtree Street NE, Suite 2300, Atlanta, Georgia 30309

Acuity Brands Lighting, Inc., One Lithonia Way, Suite 2300, Conyers, Georgia 30012

Leedarson Lighting Co., Ltd., Leedarson Building, No. 1511, 2nd Fanghu North Road, Xiamen 361010, China

Leedarson America, Inc., 4600 Highlands Pkwy SE, Suite D–E, Smyrna, Georgia 30082

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the amended complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the amended complaint and the notice of investigation. Extensions of time for submitting responses to the amended complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the amended complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion

order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: June 20, 2019.

**William Bishop,**

*Supervisory Hearings and Information Officer.*

[FR Doc. 2019–13457 Filed 6–24–19; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–1164]**

## Certain Light-Emitting Diode Products, Systems, and Components Thereof (II); Institution of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 30, 2019, under section 337 of the Tariff Act of 1930, as amended, on behalf of Lighting Science Group Corporation of Cocoa Beach, Florida; Healthe, Inc. of Cocoa Beach, Florida; and Global Value Lighting LLC of West Warwick, Rhode Island. An amended complaint was filed on May 20, 2019. A supplement to the amended complaint was filed on June 11, 2019. The complaint, as amended, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain light-emitting diode products, systems, and components thereof by reason of infringement of certain claims of U.S. Patent No. 7,098,483 (''the '483 Patent''); U.S. Patent No. 7,095,053 (''the '053 Patent''); U.S. Patent No. 8,506,118 (''the '118 Patent''); U.S. Patent No. 7,528,421 (''the '421 Patent''); U.S. Patent No. 8,674,608 (''the '608 Patent''); U.S. Patent No. 8,201,968 (''the '968 Patent''); and U.S. Patent No. 8,967,844 (''the '844 Patent''). The complaint, as amended, further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complaint, as amended, also alleges violations of section 337 based on the importation into the United States, and in the sale of, certain light-emitting diode products, systems, and components thereof by reason of false advertising, the threat of effect of which is to destroy or substantially injure an industry in the United States.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

**ADDRESSES:** The complaint, as amended, except for any confidential information contained therein, is 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, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained 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 at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*.

**FOR FURTHER INFORMATION CONTACT:** Pathenia M. Proctor, Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

**SUPPLEMENTARY INFORMATION:**

*Authority:* The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2018).

*Scope of Investigation:* Having considered the complaint, as amended, the U.S. International Trade Commission, on June 19, 2019, *ordered that*—

(1) Pursuant to section 210.10(a)(6) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(a)(6), two separate investigations be instituted based on the amended complaint to further efficient adjudication, one of which is instituted by this notice of investigation, and that this decision shall not preclude the presiding Administrative Law Judge from further severing the investigation pursuant to section 210.14(h) of the Commission's Rules of Practice and Procedure, 19 CFR 210.14(h), if appropriate;

(2) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) Whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (3) by reason of infringement of one of more of claims 6 and 7 of the '968 patent; and claim 4 of the '844 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(b) whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States, or in the sale of certain products identified in paragraph (3) by reason of false advertising, the threat or effect of which is to destroy or substantially injure an industry in the United States;

(3) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''(1) LED downlights; and (2) LED luminaires'';

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Lighting Science Group Corporation, 801 N. Atlantic Avenue, Cocoa Beach, FL 32931

Healthe, Inc., 801 N. Atlantic Avenue, Cocoa Beach, FL 32931

Global Value Lighting, LLC, 1350 Division Road, Suite 204, West Warwick, RI 02893

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the amended complaint is to be served:

Signify N.V. (f/k/a Philips Lighting N.V.), High Tech Campus 45, 5656 AE Eindhoven, Netherlands

Signify North America Corporation, (f/k/a Philips Lighting North America Corporation), 200 Franklin Square Drive, Somerset, New Jersey 08873

General Electric Company, 41 Farnsworth Street, Boston, Massachusetts 02210

Consumer Lighting (U.S.), LLC, (d/b/a GE Lighting, LLC), 1975 Noble Road, Cleveland, Ohio 44112

Acuity Brands, Inc., 1170 Peachtree Street NE, Suite 2300, Atlanta, Georgia 30309

Acuity Brands Lighting, Inc., One Lithonia Way, Suite 2300, Conyers, Georgia 30012

Leedarson Lighting Co., Ltd., Leedarson Building, No. 1511, 2nd Fanghu North Road, Xiamen 361010, China

Leedarson America, Inc., 4600 Highlands Pkwy SE, Suite D–E, Smyrna, Georgia 30082

(c) The Office of Unfair Import Investigations, U.S. International Trade

Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the amended complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the amended complaint and the notice of investigation. Extensions of time for submitting responses to the amended complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the amended complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: June 20, 2019.

**William Bishop,**

*Supervisory Hearings and Information Officer.*

[FR Doc. 2019–13455 Filed 6–24–19; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF LABOR

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Workforce Innovation and Opportunity Act Implementation Study Office of the Secretary

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL) is submitting the information collection request (ICR) proposal titled, ''Workforce Innovation and Opportunity Act Implementation Study,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before July 25, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201812-1290-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Frederick C. Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** This ICR seeks PRA authority for the Workforce Innovation and Opportunity Act (WIOA) Implementation Study information collection. More specifically, this ICR seeks clearance for a survey data collection activity conducted as part of a WIOA implementation evaluation. WIOA section 169 authorizes this information collection. *See* 29 U.S.C. 3324.

This proposed information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on February 23, 2018 (83 FR 8110).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB ICR Reference Number 201812–1290–001. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* DOL–OS.

*Title of Collection:* Workforce Innovation and Opportunity Act Implementation Study.

*OMB ICR Reference Number:* 201812–1290–001.

*Affected Public:* State, Local, and Tribal Governments.

*Total Estimated Number of Respondents:* 17.

*Total Estimated Number of Responses:* 17.

*Total Estimated Annual Time Burden:* 51 hours.

*Total Estimated Annual Other Costs Burden:* $0.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: June 18, 2019.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2019–13471 Filed 6–24–19; 8:45 am]

**BILLING CODE 4510–HX–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 25, 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:** Sheila McConnell, Office of Standards, Regulations, and Variances at 202–693–9440 (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 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–2019–016–C.
*Petitioner:* S & J Coal Company, 15 Road View Lane, Pine Grove, Pennsylvania 17963.
*Mine:* Slope #2 Mine, MSHA I.D. No. 36–09963, located in Schuylkill County, Pennsylvania.
*Regulation Affected:* 30 CFR 75.1400(c) (Hoisting equipment; general).
*Modification Request:* The petitioner requests a modification of the existing standard to permit operating the gunboat used in the mine to transport persons without safety catches or other no less effective devices.

The petitioner states that:

(1) To date, a functional safety catch has not been developed because no such safety catch or device is available for steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of anthracite mines. Makeshift devices, if installed, could be activated on knuckles and curves when no emergency exists causing a tumbling effect on the conveyance which would increase rather than decrease the hazard to miners.

(2) Anthracite mine slopes range in length from 180 to 1,000 feet and vary in pitch from 30 to 75 degrees.

(3) The petitioner proposes to operate the steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device, and use hoisting ropes having a safety factor in excess of three (3).

The petitioner proposes the following terms and conditions:

(a) A communication signal system, audible to the hoist operator will be installed so that it can be activated from the gunboat at any location along the slope.

(b) The design safety factor of the hoist rope will be maintained at all times not less than three (3) times the value specified in 30 CFR 75.1431.

(c) A detailed inspection procedure of the ropes and terminations used at the mine will be posted in the hoist house and will be complied with at all times.

(d) A secondary connection will be securely fastened around the gunboat and securely fastened to the hoisting rope at a point above the main connecting device. The secondary safety connection must meet the safety factor requirements described in Item (b) above and be of the same size as the primary hoist rope, properly terminated above the primary hoist rope attachment with at least two clips on each end or with equivalent strength chains.

(e) At least 2 feet of clearance must be maintained between the highest part of the secondary attachment and the head sheave when the gunboat is positioned in the full dump position.

(f) Within 60 days after the Proposed Decision and Order (PDO) becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. These proposed revisions will include initial and refresher training regarding compliance with the alternative method stated in the petition and the special terms and conditions stated in the PDO.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

*Docket Number:* M–2019–017–C.
*Petitioner:* Blackjewel, LLC, P.O. Box 249, Stanville, Kentucky 41659.
*Mine:* D–31 Cut-Through Mine, MSHA I.D. No. 44–06782, located in Lee County, Virginia.
*Regulation Affected:* 30 CFR 75.1108(c) (Approved conveyor belts).
*Modification Request:* The petitioner requests a modification of the existing standard to permit the continued use of existing steel cable conveyor belt.

The petitioner states that:

—The D–31 Cut-Through mine is not an active mine and is in non-producing status; however, it is used as a belt corridor to convey coal mined in Kentucky to the preparation and loadout facilities in Virginia. Therefore, no coal is being mined and there is typically only one employee that conducts examinations.
—The mine is approximately 9,500 feet long, is in a straight line, and has portals on each end for access.
—The mine has no belt drives, take-ups, transfer points, nor power underground, other than the low-voltage power required for mine phones, mine monitoring equipment, tracking, and communications.

—The main travelway in the mine is beside the belt so that every time the mine is examined, the belt is examined in its entirety.
—The mine currently has carbon monoxide (CO) monitoring at 1,000 feet spacing for fire detection.
—The mine currently has fire valves for firefighting at a maximum spacing of 300 feet along the belt, with enough hose stored along the belt to reach the entire length of the belt from the valves.
—There are no seals in the mine.
—The existing conveyor belt has been in service since approximately 2003 and has no incidents or issues due to the design and layout of the belt.
—The belt is a steel cable belt with approximately 20,000 feet of belt that is continuous using vulcanized splices with a few temporary maintenance clips here and there., The belt has never been replaced in its entirety since its installation.
—The petitioner states that the belt has several years of life left on the belt.
—The belt is equipped with turnovers outside on each end of the belt, such that no rollers contact the coal carrying dirty side of the belt anywhere underground. The petitioner states that the design virtually eliminates carryback and reduces significantly the risk of fire associated with the belt. The design also minimizes wear on the rollers.
—There is no return since there is no mining being done in the mine. All entries are intake.
—Belt air velocity is typically greater than 100 feet per minute and over 10,000 cubic feet per minute.
—The mines uses tracking radios, mine phones, and a dial telephone midway for communication.
—Employees in the mine, with usually one employee working in the mine at any time, have two means of escape on either end of the belt.

The petitioner proposes the following actions in order to continue using the conveyor belt currently in use.

(1) Replace the belt with Part 14 compliant belt when it becomes necessary to replace the belt.

(2) Activate a different CO sensor each day by applying 50 parts per millions CO gas until all CO sensors are checked, then repeat.

(3) Inspect the belt and belt entry twice each shift when the belt is running.

The petitioner states that the proposed alternative method will provide a degree of safety that is at least equal to the requirements of the existing standard.

*Docket Number:* M–2019–018–C.

*Petitioner:* Hartshorne Mining Group, LLC, P.O. Box 449, Calhoun, Kentucky 42327.

*Mine:* Poplar Grove Mine, MSHA I.D. No. 15–19806, located in McLean County, Kentucky.

*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, total station surveying equipment, distance meters, and data loggers, in or inby the last open crosscut.

The petitioner states that:

(1) The alternative method of compliance will allow the mine operator to comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, using the most practical and accurate surveying equipment.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining requires that accurate and precise measurements be completed in a prompt and efficient manner.

(3) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. The examination will include the following:

(a) Checking the instrument for any physical damage and the integrity of the case.

(b) Removing the battery and inspecting for corrosion.

(c) Inspecting the contact points to ensure a secure connection to the battery.

(d) Reinserting the battery and powering up and shutting down to ensure proper connections.

(e) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(4) The results of the examinations will be recorded and retained for 1 year and made available to MSHA on request.

(5) 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.

(6) Nonpermissible electronic surveying equipment will not be used if methane is detected in concentrations at or above 1.0 percent for the area being surveyed. 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.

(7) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition, as defined in 30 CFR 75.320.

(8) Batteries in the nonpermissible electronic surveying equipment will be changed out or charged in fresh air outby the last open crosscut.

(9) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible electronic surveying equipment in areas where methane may be present.

(10) The nonpermissible electronic surveying equipment will not be put into service in or inby the last open crosscut until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

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–2019–019–C.

*Petitioner:* Hartshorne Mining, LLC, P.O. Box 449, Calhoun, Kentucky 42327.

*Mine:* Poplar Grove Mine, MSHA I.D. No. 15–19806, located in McLean County, Kentucky.

*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 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) The alternative method of compliance will allow the mine operator to comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, using the most practical and accurate surveying equipment.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining requires that accurate and precise measurements be completed in a prompt and efficient manner.

(3) All nonpermissible electronic surveying equipment to be used in return airways will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. The examination will include the following:

(a) Checking the instrument for any physical damage and the integrity of the case.

(b) Removing the battery and inspecting for corrosion.

(c) Inspecting the contact points to ensure a secure connection to the battery.

(d) Reinserting the battery and powering up and shutting down to ensure proper connections.

(e) Checking the battery compartment cover or battery attachment to ensure that it is securely fastened.

(4) The results of the examinations will be recorded and retained for 1 year and made available to MSHA on request.

(5) 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.

(6) Nonpermissible electronic surveying equipment will not be used if methane is detected in concentrations at or above 1.0 percent for the area being surveyed. 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 the return airway.

(7) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition, as defined in 30 CFR 75.320.

(8) Batteries in the nonpermissible electronic surveying equipment will be changed out or charged in fresh air out of the return airway.

(9) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible electronic surveying equipment in areas where methane may be present.

(10) The nonpermissible electronic surveying equipment will not be put into service in the return airway until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

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. 2019–13472 Filed 6–24–19; 8:45 am]

**BILLING CODE 4520–43–P**

## NATIONAL SCIENCE FOUNDATION

### Agency Information Collection Activities: Comment Request

**AGENCY:** National Science Foundation.

**ACTION:** Submission for OMB Review; Comment Request.

**SUMMARY:** The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register**, and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.*

**DATES:** Comments regarding this information collection are best assured of having their full effect if received by July 25, 2019.

**FOR FURTHER INFORMATION CONTACT:** Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 17th Street, NW, Room 10235, Washington, DC 20503, and Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314, or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

Copies of the submission may be obtained by calling 703–292–7556.

**SUPPLEMENTARY INFORMATION:** NSF 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.

Comments regarding (a) 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; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to the points of contact in the **FOR FURTHER INFORMATION CONTACT** section.

*Title of Collection:* Biological Sciences Proposal Classification Forms.

*OMB Number:* 3145–0203.

*Overview of this Information Collection:* Five organizational units within the Directorate of Biological Sciences of the National Science Foundation will use the Biological Sciences Proposal Classification Form. They are the Division of Biological Infrastructure (DBI), the Division of Environmental Biology (DEB), the Division of Molecular and Cellular Biosciences (MCB), the Division of Integrative Organismal Systems IOS) and Emerging Frontiers (EF). All scientists submitting proposals to these units will be asked to complete an electronic version of the Proposal Classification Form. The form consists of brief questions about the substance of the research and the investigator's previous federal support. Each division will have a slightly different version of the form. In this way, submitters will only confront response choices that are relevant to their discipline.

*Use of the Information:* The information gathered with the Biological Sciences Proposal Classification Form serves two main purposes. The first is facilitation of the proposal review process. Since peer review is a key component of NSF's grant-making process, it is imperative that proposals are reviewed by scientists with appropriate expertise. The information collected with the Proposal Classification Form helps ensure that the proposals are evaluated by specialists who are well versed in appropriate subject matter. This helps maintain a fair and equitable review process.

The second use of the information is program evaluation. The Directorate is committed to investing in a range of substantive areas. With data from this

collection, the Directorate can calculate submission rates and funding rates in specific areas of research. Similarly, the information can be used to identify emerging areas of research, evaluate changing infrastructure needs in the research community, and track the amount of international research. As the National Science Foundation is committed to funding cutting-edge science, these factors all have implications for program management.

The Directorate of Biological Sciences has a continuing commitment to monitor its information collection in order to preserve its applicability and necessity. Through periodic updates and revisions, the Directorate ensures that only useful, non-redundant information is collected. These efforts will reduce excessive reporting burdens.

*Burden on the Public:* The Directorate estimates that an average of five minutes is expended for each proposal submitted. An estimated 6,500 responses are expected during the course of one year for a total of 542 public burden hours annually.

*Expected Respondents:* Individuals.

*Estimated Number of Responses:* 6,500.

*Estimated Number of Respondents:* 6,500.

*Estimated Total Annual Burden on Respondents:* 542 hours.

*Frequency of Responses:* On occasion.

Dated: June 20, 2019.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2019–13423 Filed 6–24–19; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Listening Session on Interoperability of Medical Devices, Data, and Platforms To Enhance Patient Care

**AGENCY:** Networking and Information Technology Research and Development (NITRD) National Coordination Office (NCO), National Science Foundation.

**ACTION:** Notice of listening session.

**SUMMARY:** This listening session will focus on the interoperability of medical devices, data, and platforms to enhance patient care. Federal stakeholders will listen to the community explore solutions that promote a shared future vision of next generation, interoperable, and intelligent health systems. The feedback received from the listening session will provide potential research directions for advancing medical device interoperability.

**DATES:** July 17, 2019.

**ADDRESSES:** The listening session will be held at the Food and Drug Administration (FDA), White Oak Campus, Silver Spring, MD. Registration is required for in-person attendance. For more information regarding registration and remote participation please see the listening session website: *https://www.nitrd.gov/nitrdgroups/index.php?title=Medical-Device-Interoperability-2019.*

**FOR FURTHER INFORMATION CONTACT:** Alex Thai at 202–459–9674 or email *HITRD-Interoperability@nitrd.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:**

*Overview:* This notice is issued on behalf of the NITRD Health Information Technology Research & Development (HITRD) Interagency Working Group (IWG). The HITRD IWG is conducting a listening session to engage experts from industry, academia, and government on solutions for advancing medical device interoperability. This listening session builds upon the February 2019 Request for Information (RFI): *Action on Interoperability of Medical Devices, Data, and Platforms to Enhance Patient Care* in which the HITRD IWG inquired whether a vision of sustained interoperability in the hospital and into the community is feasible and, if so, potential solutions to achieve this goal. Further details of the RFI can be found at 84 FR 4544 (February 15, 2019). Responses to the RFI are available on the NITRD website: *HITRD-RFI-Responses-2019.*

The listening session will take place on July 17, 2019 from 8:00 a.m. to 5:00 p.m. ET at the Food and Drug Administration (FDA), White Oak Campus, Silver Spring, MD. Space is limited, participation is open to the public on a first-come, first-served basis. Registration is required for in-person attendance and will be closed once we reach capacity. Please see the listening session website for more information on registration and remote participation: *https://www.nitrd.gov/nitrdgroups/index.php?title=Medical-Device-Interoperability-2019.*

*Listening Session Goals:* HITRD members will use information gathered from this listening session to develop an actionable report to advance medical device interoperability.

*Listening Session Objectives:* Gather information from the community on the following six topic areas identified from the RFI Responses

- Data, metadata
- Access to control of devices
- Leadership and governance
- Incentives
- Management and modernization of standards
- Infrastructure, tools, and use cases

*References:*

- 84 FR 4544 (February 2019): *https://www.federalregister.gov/documents/2019/02/15/2019-02519/request-for-information-action-on-interoperability-of-medical-devices-data-and-platforms-to-enhance*
- HITRD–RFI-Responses-2019: *https://www.nitrd.gov/nitrdgroups/index.php?title=HITRD-RFI-Responses-2019*

Submitted by the National Science Foundation in support of the Networking and Information Technology Research and Development (NITRD) National Coordination Office (NCO) on June 20, 2019.

(Authority: 42 U.S.C. 1861.)

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2019–13466 Filed 6–24–19; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit modification request received and permit issued.

**SUMMARY:** The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated and permits issued under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of a requested permit modification and permit issued.

**FOR FURTHER INFORMATION CONTACT:** Nature McGinn, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–8224; email: *ACApermits@nsf.gov.*

**SUPPLEMENTARY INFORMATION:** The National Science Foundation (NSF), as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act

of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection.

NSF issued a permit (ACA 2018–010) to David J. Smith on October 16, 2017. The issued permit allows the permit holder to introduce non-indigenous species into Antarctica. Dormant microbiological samples, pre-loaded into and remaining within a triple containment vessel, were brought to Antarctica to be launched into the Earth's stratosphere as part of NASA's Long Duration Balloon program (LDB). Details about the samples and the containment vessel are provided in the permit (attached). The microbiological samples, still contained within the vessel, will be returned to the USA and the home institution after recovery of the balloon payload.

Now the permit holder proposes a permit modification to extend the dates of the permitted activities with a new permit expiration date of March 31, 2023 to allow for the possibility of a flight aboard an LDB mission in an upcoming austral summer season and the subsequent recovery of the payload. The Environmental Officer has reviewed the modification request and has determined that the amendment is not a material change to the permit, and it will have a less than a minor or transitory impact.

*Dates of Permitted Activities:* October 16, 2017 to March 31, 2023.

The permit modification was issued on June 19, 2019.

**Erika N. Davis,**

*Program Specialist, Office of Polar Programs.*

[FR Doc. 2019–13427 Filed 6–24–19; 8:45 am]

**BILLING CODE 7555–01–P**

## OFFICE OF PERSONNEL MANAGEMENT

### Notice of Submission for Renewal of a Previously Approved Information Collection: Interview Survey Form, INV 10

**AGENCY:** Office of Personnel Management.

**ACTION:** 30-Day Notice and request for comments.

**SUMMARY:** The National Background Investigation Bureau (NBIB), Office of Personnel Management (OPM) is notifying the general public and other federal agencies that OPM is seeking Office of Management and Budget (OMB) approval of a revised information collection control number 3206–0106, Interview Survey Form, INV 10.

**DATES:** Comments are encouraged and will be accepted until July 25, 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 Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or by electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974;

**FOR FURTHER INFORMATION CONTACT:** A copy of this information collection, with applicable supporting documentation, may be obtained by contacting National Background Investigations Bureau, U.S. Office of Personnel Management, 1900 E Street NW, Washington, DC 20415, Attention: Donna McLeod or by electronic mail at *FISFormsComments@opm.gov.*

**SUPPLEMENTARY INFORMATION:** This notice announces that OPM has submitted to OMB a request for review and clearance of a revised information collection, control number 3206–0106, Interview Survey Form, INV 10. The public has an additional 30-day opportunity to comment.

The Interview Survey Form, INV 10 is mailed by OPM, to a random sampling of record and personal sources contacted during background investigations when investigators have performed fieldwork. The INV 10 is used as a quality control instrument designed to ensure the accuracy and integrity of the investigative product. The form queries the recipient about the investigative procedure exhibited by the investigator, the investigator's professionalism, and the information discussed and reported. In addition to the preformatted response options, OPM invites the recipients to respond with any other relevant comments or suggestions.

The 60 day **Federal Register** Notice was published on February 1, 2019 (84 FR 1250). No comments were received. As part of the 30 day **Federal Register** notice, OPM proposes the following revisions to the Privacy Act Statement: *Privacy Act Statement* Pursuant to 5 U.S.C. 552a (e)(3), this Privacy Act Statement explains why OPM is requesting the information on this form. *Authority:* 5 U.S.C. 301; the Federal Records Act, 44 U.S.C. 3101. *Purpose:* The primary purpose of the information you furnish will be to assess the quality, conduct, and professionalism of the investigator listed above during the course of the investigation. The agency uses this information to appraise, instruct, and improve the performance of Federal staff and contractors to assist in its personnel management evaluation and to determine if additional training or other action is necessary. *Routine Uses:* Information from this form may be disclosed to the investigator listed on the form, if requested and required under the provisions of the Freedom of Information Act and/or the Privacy Act. It also may be disclosed externally as a ''routine use'' to other entities as described in the OPM Internal-20 Integrity Assurance Officer Control Files system of records notice, available at *www.opm.gov/privacy. Consequences of Failure to Provide Information:* Completing this form is voluntary. There are no adverse effects if you do not complete this form.

### Analysis

*Agency:* NBIB, U.S. Office of Personnel Management.

*Title:* Interview Survey Form, INV 10.

*OMB Number:* 3206–0106.

*Affected Public:* A random sampling of record and personal sources contacted during background investigations when investigators have performed fieldwork.

*Number of Respondents:* 67,391.

*Estimated Time Per Respondent:* 6 minutes.

*Total Burden Hours:* 6,739.

Office of Personnel Management.

**Alexys Stanley,**

*Regulatory Affairs Analyst.*

[FR Doc. 2019–13417 Filed 6–24–19; 8:45 am]

**BILLING CODE 6325–53–P**

## POSTAL REGULATORY COMMISSION

**[Docket Nos. MC2019–156 and CP2019–174]**

### New Postal Products

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* June 27, 2019.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

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I. Introduction
II. Docketed Proceeding(s)

## I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

## II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2019–156 and CP2019–174; *Filing Title:* USPS Request to Add Priority Mail Express Contract 77 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 19, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* June 27, 2019.

This Notice will be published in the **Federal Register**.

**Stacy L. Ruble,**
*Secretary.*

[FR Doc. 2019–13426 Filed 6–24–19; 8:45 am]

**BILLING CODE 7710–FW–P**

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

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# POSTAL REGULATORY COMMISSION

**[Docket Nos. MC2019–154 and CP2019–172; MC2019–155 and CP2019–173]**

## New Postal Products

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* June 26, 2019.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

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I. Introduction
II. Docketed Proceeding(s)

## I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

## II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2019–154 and CP2019–172; *Filing Title:* USPS Request to Add Priority Mail Express & Priority Mail Contract 94 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 18, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* June 26, 2019.

2. *Docket No(s).:* MC2019–155 and CP2019–173; *Filing Title:* USPS Request to Add Priority Mail Contract 535 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 18, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* June 26, 2019.

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

This Notice will be published in the **Federal Register**.

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2019–13416 Filed 6–24–19; 8:45 am]

**BILLING CODE 7710–FW–P**

## POSTAL SERVICE

### Product Change—Priority Mail Express Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of required notice:* June 25, 2019.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Reed, 202–268–3179.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 19, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express Contract 77 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–156, CP2019–174.

**Elizabeth Reed,**

*Attorney, Corporate and Postal Business Law.*

[FR Doc. 2019–13418 Filed 6–24–19; 8:45 am]

**BILLING CODE 7710–12–P**

## OFFICE OF SCIENCE AND TECHNOLOGY POLICY

### National Research Strategy for the President's Roadmap To Empower Veterans and End the National Tragedy of Suicide (PREVENTS)

**AGENCY:** Office of Science and Technology Policy (OSTP), Executive Office of the President.

**ACTION:** Request for information.

**SUMMARY:** To advance the President's vision of a National Roadmap to Empower Veterans and End Suicide, OSTP and VA will lead development of a National Research Strategy to improve the coordination, monitoring, benchmarking, and execution of public- and private-sector research related to the factors that contribute to veteran suicide. Through this RFI, we seek input on ways to increase knowledge about factors influencing suicidal behaviors and ways to prevent suicide; inform the development of a robust and forward looking research agenda; coordinate relevant research efforts across the Nation; and measure progress on these efforts. The public input provided in response to this RFI will inform the Veteran Wellness, Empowerment, and Suicide Prevention Task Force, who will develop and implement the National Research Strategy.

**DATES:** *Response Deadline:* July 15, 2019.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Shieh at 202–456–4444. Emails may be addressed to *RFIresearchresponse@va.gov.* Questions, comments or RFI submissions via email should include ''RFI Response: National Research Strategy for the President's Roadmap to Empower Veterans and End the National Tragedy of Suicide (PREVENTS)'' in the subject line of the message. Please designate the question(s) you are answering by providing the letter and number of the specific question(s) below prior to providing your answer(s).

**SUPPLEMENTARY INFORMATION:** On March 5, 2019, President Trump signed Executive Order (E.O.) 13861 mandating the development of the President's Roadmap to Empower Veterans and End the National Tragedy of Suicide (PREVENTS). The Roadmap will include a National Research Strategy to advance efforts to improve quality of life and reduce the rate of suicide among veterans by better coordinating research within and beyond the Federal government, and enhancing the integration of research across the social, behavioral, and biological determinants of wellness and brain health.

We aim to understand the full spectrum of factors influencing veteran suicide. Efforts are needed that would allow early detection of trauma in the brains of living people and improve our understanding and ability to prevent conditions or factors that contribute to suicide. We aim to incorporate public health approaches that target prevention strategies and address intervention for individuals, communities, and the broader population.

Reducing the rate of suicide in the veteran population will require an innovative, concerted approach to public health, with wide stakeholder input. The Federal government alone cannot address these challenges; therefore, we seek to involve the Nation's full research and development (R&D) ecosystem, and collaborate with state, local, territorial, and tribal governments, as well as community members, industry, non-profit organizations, and academic institutions to ensure that veterans have access to effective suicide prevention services. Our collective efforts begin with the common understanding that suicide is preventable, and that prevention requires ongoing support prior to and beyond intervention at the point of crisis. To end veteran suicide, we must develop a holistic understanding of the underlying factors that determine the overall health and well-being of our Nation's veterans.

The National Research Strategy shall include milestones and metrics designed to:

*i. Improve our ability to identify individual veterans and groups of veterans at greater risk of suicide;*

*ii. Develop and improve individual interventions that increase overall veteran quality of life and decrease the veteran suicide rate;*

*iii. Develop strategies to better ensure the latest research discoveries are translated into practical applications and implemented quickly;*

*iv. Establish relevant data-sharing protocols across Federal agencies that align with community collaborators;*

*v. Draw upon technology to capture and use health data from non-clinical settings to advance behavioral and mental health research to the extent practicable;*

*vi. Improve coordination among research efforts, prevent unnecessarily duplicative efforts, identify barriers to or gaps in research, and facilitate opportunities for improved consolidation, integration, and alignment; and*

*vii. Develop public-private collaboration models to foster innovative and effective research that accelerates these efforts.*

*Further Instructions:* All public comments are welcome and should be submitted by July 15, 2019 in order to ensure they are considered in the National Research Strategy. Responses may be submitted online at *https://www.research.va.gov/PREVENTS/.*

Response to this RFI is voluntary, and respondents need not reply to all questions. Each individual or institution is requested to submit only one response, and to indicate whether it is an individual or organizational response. Comments containing references, studies, research, and other empirical data that are not widely published should include copies or electronic links of the referenced materials. Comments containing profanity, vulgarity, threats, or other inappropriate language or content will not be considered.

All submissions, including attachments and other supporting materials, will become part of the public record and are subject to public disclosure. Responses to this RFI, without change, may be posted on a Federal website. Therefore, no business proprietary information, copyrighted information, or personally identifiable information should be submitted in response to this RFI. Please note that the U.S. Government will not pay for response preparation, or for the use of any information contained in the response.

**Questions To Inform Development of the National Research Strategy**

*A. How can we improve our ability to identify individual veterans and groups of veterans at greater risk of suicide?*

1. What are the most critical near-term and long-term areas for research into factors influencing veteran suicide and methods to assess an individual's risk of suicide?

2. What are the biggest gaps in capability to identify and address the social, behavioral, and biological determinants of health leading to suicidal behavior in veterans? Consider associated conditions such as mental illness, traumatic brain injury (TBI), chronic traumatic encephalopathy (CTE), posttraumatic stress disorder (PTSD), and depression, as well as social determinants of health and research in intervention and post-intervention strategies.

3. How can various disciplines (*e.g.,* neurology, endocrinology, psychology) work together to better understand and address individual risk factors that lead to veteran suicide? How can different disciplines work together to develop individual intervention strategies?

*B. How can we develop and improve individual interventions that increase overall veteran quality of life and decrease the veteran suicide rate?*

4. How might we better understand the progression of veterans as they transition from military to civilian life in a way that supports identification of suicide risk factors, protective factors, and opportunities for intervention that addresses veterans at various stages of transition, before the point of crisis?

5. What are currently known effective and promising or emerging practices for suicide prevention? What factors make these practices effective? What additional research is needed to demonstrate the effectiveness of promising practices?

6. What tools, platforms, methods, or technologies are needed to advance:

- Understanding of suicide risk factors
- Assessment of individuals most likely to be at risk of suicide
- Evaluation of protective factors leading to the prevention of suicide
- Improvements in social connection and community engagement of veterans
- Identification of opportunities for intervention far before the point of crisis

7. What are barriers to the adoption of existing tools, platforms, methods, or technologies that identify suicide risk factors or provide effective interventions?

*C. How can we develop strategies to better ensure the latest research discoveries are translated into practical applications and implemented quickly?*

8. What types of organizations should be engaged in developing and implementing the National Research Strategy? Which existing consortia or partnerships should be involved, and why? Are there existing organizations that have been effective in identifying and mitigating veteran suicide risks? Are there programs and resources within communities that have been successful? What factors made these programs successful?

9. How can the Federal government strengthen the public health system, including mental health and crisis intervention education and training programs, to ensure an adequate, well-trained medical workforce that is well-equipped to respond to the challenge of veteran suicide?

10. What are the primary barriers to adoption of current best practices for the assessment, evaluation and implementation of public health approaches targeting suicide prevention?

11. What are effective methods to quickly transition promising practices into clinical and community practice? Where have these methods been demonstrated to work previously?

12. What are methods and models to evaluate and measure outcomes and effectiveness of interventions?

13. What are the key elements in building a robust and forward looking research agenda, in addition to translating research outcomes?

*D. How best to establish relevant data-sharing protocols across Federal partners that align with community partners?*

14. How can Federal data, such as that from the Federal Interagency Traumatic Brain Injury Research (FITBIR) informatics system, be best leveraged in combination with local or regional data to provide new insights into trauma or the progression of disease? Are there technological limitations that prevent use of Federal data from generating information to predict outcomes?

15. What data or types of data are required to advance research efforts? Are there existing sources of data or validated datasets related to veteran suicide, mental health, risk determination, brain injury, or other relevant areas that have been previously underutilized in Federal efforts?

*E. How should we draw upon technology to capture and use health data from non-clinical settings to advance behavioral and mental health research to the extent practicable?*

16. How can both clinical and non-clinical data be better used to inform research efforts, and enhance current models of predictive analytics?

17. Are social determinants or risk factors being used to target services or provide outreach? If so, how? How are the beneficiaries with social risk identified?

18. Are there especially promising strategies for improving care of patients with social risk?

19. How are costs for targeting and providing those services evaluated? What are the additional costs to services, such as case management, and to provide additional services (*e.g.,* transportation)? What is the return on investment in improved outcomes or reduced healthcare concern?

*F. How can we improve coordination among research efforts, prevent unnecessarily duplicative efforts, identify barriers to or gaps in research, and facilitate opportunities for improved consolidation, integration, and alignment?*

*G. How can we develop a public-private collaboration model to foster innovative and effective research that accelerates these efforts?*

*H. Please provide any additional information not addressed by previous questions that is crucial to the creation, implementation, and success of a National Research Strategy to improve the coordination, monitoring, benchmarking, and execution of public- and private-sector research related to the factors that contribute to service member and veteran suicide.*

Thank you sincerely for contributing to efforts to end Veteran suicide.

**Authority:** National Science and Technology Policy, Organization, and

Priorities Act of 1976, 42 U.S.C. 6601, Public Law 94–282.

**Stacy Murphy,**

*Operations Manager.*

[FR Doc. 2019–13476 Filed 6–24–19; 8:45 am]

**BILLING CODE 3270–F9–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86145; File No. SR–BOX–2019–21]**

## Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rules Regarding the Give-Up and Clearance of Exchange Transactions

June 19, 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 5, 2019, BOX Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BOX Rule 7190 (Clearing Participant Give-Up), and BOX Rule 7200 (Submission for Clearance), in order to codify that for each transaction in which an Options Participant[3] participates, the Options Participant may indicate, at the time of the trade or through post trade allocation, any OCC number of a Clearing Participant[4] through which the transaction will be cleared (''Give Up''), and to establish a new ''Opt In'' process by which a Clearing Participant can restrict one or more of its OCC numbers and thereafter designate certain Options Participants as authorized to Give Up a restricted clearing number. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxoptions.com*.

### 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend its requirements in BOX Rule 7190 and Rule 7200, related to the give up of a Clearing Participant by an Options Participant on Exchange transactions. This proposed rule change is submitted in order to follow an industry-wide initiative and align the Exchange with other exchanges in the industry. The proposed rule change is based on several recently-approved rule changes submitted by other options exchanges.[5]

By way of background, to enter transactions on the Exchange, an Options Participant must either be a Clearing Participant or must have a Clearing Participant agree to accept financial responsibility for all of its transactions. Additionally, Rule 7190 currently provides that when an Options Participant executes a transaction on the Exchange, it must give up the name of a Clearing Participant (the ''Give Up'') through which the transaction will be cleared (*i.e.* ''give up'').

Recently, certain Clearing Participants, in conjunction with the Securities Industry and Financial Markets Association (''SIFMA''), expressed concerns related to the process by which executing brokers on U.S. options exchanges (''Exchanges'') are allowed to designate or 'give up' a clearing firm for the purposes of clearing particular transactions. The SIFMA-affiliated Clearing Participants have recently identified the current give up process as a significant source of risk for clearing firms, and subsequently requested that the Exchanges alleviate this risk by amending exchange rules governing the give up process.[6]

Proposed Rule Change

Based on the above, the Exchange now seeks to amend its rules regarding the current give up process in order to allow a Clearing Participant to opt in, at the Options Clearing Corporation (''OCC'') clearing number level, to a feature that, if enabled by the Clearing Participant, will allow the Clearing Participant to specify which Options Participants are authorized to give up that OCC clearing number. As proposed, Rule 7190 will be amended to provide that for each transaction in which an Options Participant participates, the Options Participant may indicate, at the time of the trade or through post trade allocation, any OCC number of a Clearing Participant through which the transaction will be cleared (''Give Up''), provided the Clearing Participant has not elected to ''Opt In'', as defined in paragraph (b) of the proposed Rule, and restrict one or more of its OCC number(s) (''Restricted OCC Number''). An Options Participant may Give Up a Restricted OCC Number provided the Options Participant has written authorization as described in proposed paragraph (b)(2) (''Authorized Participant''). The Exchange believes that this proposal would result in the fair and reasonable use of resources by both the Exchange and the Options Participant. In addition, the proposed change would align the Exchange with competing options exchanges that have proposed rules consistent with this proposal.[7]

Proposed Rule 7190 provides that Clearing Participants may request the Exchange restrict one or more of their OCC clearing numbers (''Opt In'') as described in subparagraph (b)(1) of proposed Rule 7190. If a Clearing Participant Opts In, the Exchange will require written authorization from the Clearing Participant permitting an

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Options Participant'' means a firm, or organization that is registered with the Exchange pursuant to the Rule 2000 Series for purposes of participating in trading on a facility of the Exchange. *See* Exchange Rule 100(41).

[4] The term ''Clearing Participant'' means an Options Participant that is self-clearing or an Options Participant that clears BOX Transactions for other Options Participants of BOX. *See* Exchange Rule 100(13).

[5] *See* Securities Exchange Act Release No. 34–85883 (May 17, 2019) (Order Approving SR–ISE–2019–14); *See also* Securities Exchange Act Release No. 34–84981 (February 14, 2019) (Order Approving SR–Phlx–2018–72), Securities Exchange Act Release No. 34–85871 (May 16, 2019) (Order Approving SR–NYSEArca–2019–32), Securities Exchange Act Release No. 34–85392 (March 21, 2019) (Order Approving SR–MIAX–2019–05), Securities Exchange Act Release No. 34–85397 (March 22, 2019) (Order Approving SR–PEARL–2019–04), Securities Exchange Act Release No. 34–85875 (May 16, 2019) (Order Approving SR–NYSEAMER–2019–17).

[6] *See id.*

[7] *See supra,* note 5.

Options Participant to Give Up a Clearing Participant's Restricted OCC Number. An Opt In would remain in effect until the Clearing Participant terminates the Opt In as described in subparagraph (3). If a Clearing Participant does not Opt In, that Clearing Participant's OCC number may be subject to Give Up by any Options Participant.

Proposed Rule 7190(b)(1) will set forth the process by which a Clearing Participant may Opt In. Specifically, a Clearing Participant may Opt In by sending a completed ''Clearing Participant Restriction Form'' listing all Restricted OCC Numbers and Authorized Participants.[8] A copy of the proposed form is attached in Exhibit 3. A Clearing Participant may elect to restrict one of more OCC clearing numbers that are registered in its name at OCC. The Clearing Participant would be required to submit the Clearing Participant Restriction Form to the Exchange's Membership Department as described on the form. Once submitted, the Exchange requires ninety days before a Restricted OCC Number is effective within the Trading Host. This time period is to provide adequate time for the Options Participant users of that Restricted OCC Number who are not initially specified by the Clearing Participant as Authorized Participants to obtain the required authorization from the Clearing Participant for that Restricted OCC Number. Such Options Participant users would still be able to Give Up that Restricted OCC Number during the ninety day period (*i.e.,* until the number becomes restricted within the Trading Host).

Proposed Rule 7190(b)(2) will set forth the process for Options Participants to Give Up a Clearing Participant's Restricted OCC Number. Specifically, an Options Participant desiring to Give Up a Restricted OCC Number must become an Authorized Participant.[9] The Clearing Participant will be required to authorize an Options Participant as described in subparagraph (1) or (3) of Rule 7190(b) (*i.e.,* through a Clearing Participant Restriction Form), unless the Restricted OCC Number is already subject to a Letter of Guarantee that the Options Participant is a party to, as set forth in Rule 7190(d).

Pursuant to proposed Rule 7190(b)(3), a Clearing Participant may amend the list of its Authorized Participants or Restricted OCC Numbers by submitting a new Clearing Participant Restriction Form to the Exchange's Membership Department indicating the amendment as described on the form. Once a Restricted OCC Number is effective within the Trading Host pursuant to Rule 7190(b)(1), the Exchange may permit the Clearing Participant to authorize, or remove from authorization for, an Options Participant to Give Up the Restricted OCC Number intra-day only in unusual circumstances, and on the next business day in all regular circumstances. The Exchange will promptly notify the Options Participant if they are no longer authorized to Give Up a Clearing Participant's Restricted OCC Number. If a Clearing Participant removes a Restricted OCC Number, any Options Participant may Give Up that OCC clearing number once the removal has become effective on or before the next business day.

Proposed Rule 7190(c) will provide that the Trading Host will not allow an unauthorized Options Participant to Give Up a Restricted OCC Number. Specifically, if an unauthorized Give Up with a Restricted OCC Number is submitted to the System, the System will process that transaction using the Options Participant's default OCC clearing number.

Furthermore, the Exchange proposes to adopt paragraph (d) to Rule 7190 to provide, as is the case today, that a clearing arrangement subject to a Letter of Guarantee would immediately permit the Give Up of a Restricted OCC Number by the Options Participant that is party to the arrangement. Since there is an OCC clearing arrangement already established in this case, no further action is needed on the part of the Clearing Participant or the Options Participant.

The Exchange also proposes to adopt paragraph (e) to Rule 7190 to provide that an intentional misuse of this Rule is impermissible, and may be treated as a violation of Rule 3000, titled ''Just and Equitable Principles of Trade.'' This language will make clear that the Exchange will regulate an intentional misuse of this Rule (*e.g.,* sending orders to a Clearing Participant's OCC account without the Clearing Participant's consent), and such behavior would be a violation of Exchange rules.

Furthermore, the Exchange proposes to adopt paragraph (f) to Rule 7190 to codify that notwithstanding anything to the contrary in the proposed rule, if a Clearing Participant that an Options Participant has indicated as the Give Up rejects a trade, the Clearing Participant that has issued a Letter of Guarantee pursuant to Rule 7200(b), for such executing Options Participant, shall be responsible for the clearance of the subject trade.

Finally, the Exchange proposes to amend Rule 7200(b), which addresses the financial responsibility of Exchange options transactions clearing through Clearing Participants, to clarify that this Rule will apply to all Clearing Participants, regardless of whether or not they elect to Opt In, pursuant to proposed Rule 7190. Specifically, the Exchange proposes to add that Rule 7200(b) will apply to all Clearing Participants who either (i) have Restricted OCC Numbers with Authorized Participants pursuant to Rule 7190, or (ii) have non-Restricted OCC Numbers.

Implementation

The Exchange proposes to implement the proposed rule change no later than by the end of Q3 2019. The Exchange will announce the implementation date to BOX Participants in a Regulatory Circular.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[10] in general, and Section 6(b)(5) of the Act,[11] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. In particular, as discussed above, several clearing firms affiliated with SIFMA have recently expressed concerns relating to the current give up process, which permits Options Participants to identify any Clearing Participants as a designated give up for purposes of clearing particular transactions, and have identified the current give up process (*i.e.,* a process that lacks authorization)

[8] This form will be available on the Exchange's website. The Exchange will also maintain, on its website, a list of the Restricted OCC Numbers, which will be updated on a regular basis, and the Clearing Participant's contact information to assist Options Participants (to the extent they are not already Authorized Participants) with requesting authorization for a Restricted OCC Number. The Exchange may utilize additional means to inform its Options Participants of such updates on a periodic basis.

[9] The Exchange will develop procedures for notifying Options Participants that they are authorized or unauthorized by Clearing Participants.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

as a significant source of risk for clearing firms.

The Exchange believes that the proposed changes to Rule 7190 help alleviate this risk by enabling Clearing Participants to 'Opt In' to restrict one or more of its OCC clearing numbers (*i.e.,* Restricted OCC Numbers), and to specify which Authorized Participant may Give Up those Restricted OCC Numbers. As described above, all other Options Participants would be required to receive written authorization from the Clearing Participant before they can Give Up that Clearing Participant's Restricted OCC Number. The Exchange believes that this authorization provides proper safeguards and protections for Clearing Participants as it provides controls for Clearing Participants to restrict access to their OCC clearing numbers, allowing access only to those Authorized Participants upon their request. The Exchange also believes that its proposed Clearing Participant Restriction Form allows the Exchange to receive in a uniform fashion, written and transparent authorization from Clearing Participants, which ensures seamless administration of the Rule.

The Exchange believes that the proposed Opt In process strikes the right balance between the various views and interests across the industry. For example, although the proposed rule would require Options Participants (other than Authorized Participants) to seek authorization from Clearing Participants in order to have the ability to give them up, each Options Participant will still have the ability to Give Up a Restricted OCC Number that is subject to a Letter of Guarantee without obtaining any further authorization if that Options Participant is party to that arrangement. The Exchange also notes that to the extent that the executing Options Participant has a clearing arrangement with a Clearing Participant (*i.e.,* through a Letter of Guarantee), a trade can be assigned to the executing Options Participant guarantor.[12] Accordingly, the Exchange believes that the proposed rule change is reasonable and continues to provide certainty that a Clearing Participant would be responsible for a trade, which protects investors and the public interest. Additionally, the Exchange believes that adopting paragraph (e) of Rule 7190 will make clear that an intentional misuse of this Rule (*e.g.,* sending orders to a Clearing Participant's OCC account without the Clearing Participant's consent) will be a violation of the Exchange's rules, and that such behavior would subject an Options Participant to disciplinary action. For these reasons, the Exchange believes that its proposed changes to Rule 7190 and Rule 7200, is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest, by codifying that for each transaction in which an Options Participant participates, the Options Participant may indicate any OCC number of a Clearing Participant through which the transaction will be cleared, provided the Clearing Participant has not elected to Opt In.

*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. In this regard and as indicated above, the Exchange notes that the rule change is being proposed to align the Exchange with other options exchanges.[13] The Exchange does not believe that the proposed rule change will impose an unnecessary burden on intra-market competition because it will apply equally to all similarly situated Options Participants. The Exchange also notes that, should the proposed changes make BOX more attractive for trading, market participants trading on other exchanges can always elect to become Options Participants on BOX to take advantage of the trading opportunities.

Furthermore, the proposed rule change does not address any competitive issues and ultimately, the target of the Exchange's proposal is to reduce risk for Clearing Participants under the current give up model. Clearing firms make financial decisions based on risk and reward, and while it is generally in their beneficial interest to clear transactions for market participants in order to generate profit, it is the Exchange's understanding from SIFMA and clearing firms that the current process can create significant risk when the clearing firm can be given up on any market participant's transaction, even where there is no prior customer relationship or authorization for that designated transaction.

In the absence of a mechanism that governs a market participant's use of a Clearing Participant's services, the Exchange's proposal may indirectly facilitate the ability of a Clearing Participant to manage their existing relationships while continuing to allow market participant choice in broker execution services. While Clearing Participants may compete with executing brokers for order flow, the Exchange does not believe this proposal imposes an undue burden on competition. Rather, the Exchange believes that the proposed rule change balances the need for Clearing Participants to manage risks and allows them to address outlier behavior from executing brokers while still allowing freedom of choice to select an executing broker.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Pursuant to Section 19(b)(3)(A) of the Act[14] and Rule 19b–4(f)(6)[15] thereunder, the Exchange has designated this proposal as one that effects a change that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

[12] See Rule 7200 (providing that each Options Participant shall submit a letter of guarantee or other authorization given by a Clearing Participant, to the Exchange). See also proposed Rule 7190(f).

[13] *See supra,* note 5.

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

## 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–BOX–2019–21 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–BOX–2019–21. 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–BOX–2019–21 and should be submitted on or before July 16, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Vanessa A. Countryman,**

*Acting Secretary.*

[FR Doc. 2019–13411 Filed 6–24–19; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86157; File No. SR–CboeBZX–2019–047]**

## Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Adopt BZX Rule 14.11(k) To Permit the Listing and Trading of Managed Portfolio Shares

June 19, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 6, 2019, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes a rule change to adopt BZX Rule 14.11(k) to permit the listing and trading of Managed Portfolio Shares, which are shares of actively managed exchange-traded funds for which the portfolio is disclosed in accordance with standard mutual fund disclosure rules.

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 add new Rule 14.11(k) for the purpose of permitting the listing and trading, or trading pursuant to unlisted trading privileges, of Managed Portfolio Shares, which are securities issued by an actively managed open-end investment management company.[3]

Proposed Listing Rules

Proposed Rule 14.11(k)(1) provides that the Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Managed Portfolio Shares that meet the criteria of Rule 14.11(k).

Proposed Rule 14.11(k)(2) provides that Rule 14.11(k) is applicable only to Managed Portfolio Shares and that, except to the extent inconsistent with Rule 14.11(k), or unless the context otherwise requires, the rules and procedures of the Exchange's Board of Directors shall be applicable to the trading on the Exchange of such securities. Proposed Rule 14.11(k)(2) provides further that Managed Portfolio Shares are included within the definition of ''security'' or ''securities''

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[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Managed Portfolio Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C.80a–1) (''1940 Act'') organized as an open-end management investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. The basis of this proposal is an application for exemptive relief that was filed on April 4, 2019 (the ''Application'') and for which public notice was issued on April 8, 2019 (the ''Notice'') (File No. 812–14405) and subsequent order granting certain exemptive relief to Precidian Funds LLC (''Precidian''); Precidian ETFs Trust and Precidian ETF Trust II; and Foreside Fund Services, LLC issued on May 20, 2019 (the ''Order'' and, collectively, with the Application and the Notice, the ''Exemptive Order''). The Order specifically notes that ''granting the requested exemptions is appropriate in and consistent with the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. It is further found that the terms of the proposed transactions, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transactions are consistent with the policy of each registered investment company concerned and with the general purposes of the Act.'' *See* Investment Company Act Release Nos. 33440 and 33477.

as such terms are used in the Rules of the Exchange.

Proposed Rule 14.11(k)(2)(A) provides that the Exchange will file separate proposals under Section 19(b) of the Act before the listing and trading of a series of Managed Portfolio Shares. For each series of Managed Portfolio Shares, a ''Verified Intraday Indicative Value'' will be disseminated in one second intervals during Regular Trading Hours. Such Verified Intraday Indicative Value is ''verified'' in that the Investment Company's pricing verification agent compares no fewer than two calculations of the intraday indicative value for the series of Managed Portfolio Shares.

Proposed Rule 14.11(k)(2)(B) provides that transactions in Managed Portfolio Shares will occur only during Regular Trading Hours.[4]

Proposed Rule 14.11(k)(2)(C) provides that the Exchange will implement and maintain written surveillance procedures for Managed Portfolio Shares. As part of these surveillance procedures, the Investment Company's investment adviser will make available daily to FINRA and the Exchange the portfolio holdings of each series of Managed Portfolio Shares.

Proposed Rule 14.11(k)(2)(D) provides that Authorized Participants (as defined in the Investment Company's Form N–1A filed with the SEC) creating or redeeming Managed Portfolio Shares will sign an agreement with an agent (''AP Representative'') to establish a confidential account for the benefit of such Authorized Participant (''AP'') that will deliver or receive all consideration to or from the issuer in a creation or redemption. An AP Representative may not disclose the consideration delivered or received in a creation or redemption.

Proposed Rule 14.11(k)(2)(E) provides that, if the investment adviser to the Investment Company issuing Managed Portfolio Shares is registered as a broker-dealer or is affiliated with a broker-dealer, such investment adviser will erect and maintain a ''fire wall'' between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition and/or changes to such Investment Company portfolio. Personnel who make decisions on the Investment Company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company portfolio.

Proposed Rule 14.11(k)(2)(F) provides that, if an AP Representative, the custodian, pricing verification agent, reporting authority, distributor, or administrator for an Investment Company issuing Managed Portfolio Shares, or any other entity that has access to information concerning the composition, changes to such Investment Company's portfolio, and/or the consideration associated with creating or redeeming shares of a series of Managed Portfolio Shares, is registered as a broker-dealer or affiliated with a broker-dealer, such AP Representative, custodian, pricing verification agent reporting authority, distributor, or administrator or other entity will erect and maintain a ''fire wall'' between such AP Representative, custodian, pricing verification agent, reporting authority, distributor, administrator or other entity and personnel of the broker-dealer, broker-dealer affiliate, or the personnel who have knowledge of changes to the portfolio, as applicable, with respect to access to information concerning the composition and/or changes to such Investment Company portfolio. Personnel who have access to information regarding decisions on the Investment Company's portfolio composition and/or changes to the portfolio must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company portfolio.

Proposed Rule 14.11(k)(3)(A) defines the term ''Managed Portfolio Share'' as a security that (a) represents an interest in a registered investment company (''Investment Company'') organized as an open-end management investment company, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified aggregate minimum number of shares equal to a Creation Unit, or multiples thereof, in return for a designated portfolio of securities (and/or an amount of cash) with a value equal to the next determined net asset value which the AP Representative will provide through a confidential account; and (c) when aggregated in the same specified aggregate number of shares equal to a Redemption Unit, or multiples thereof, may be redeemed at the request of an Authorized Participant (as defined in the Investment Company's Form N–1A filed with the SEC), which Authorized Participant will be paid through a confidential account established for its benefit a portfolio of securities and/or cash with a value equal to the next determined net asset value (''NAV'').[5]

Proposed Rule 14.11(k)(3)(B) defines the term ''Verified Intraday Indicative Value'' (''VIIV'') as estimated indicative value of a Managed Portfolio Share based on all of the holdings of a series of Managed Portfolio Shares as of the close of business on the prior business day and, for corporate actions, based on the applicable holdings as of the opening of business on the current business day, priced and disseminated in one second intervals during Regular Trading Hours by the Reporting Authority. The Verified Intraday Indicative Value is monitored by an Investment Company's pricing verification agent responsible for processing Consolidated Tape best bid and offer quotation information into at least two ''Calculation Engines,'' each of which then calculates a separate intraday indicative value for comparison by the pricing verification agent based on the mid-point between the current NBB and NBO for the portfolio constituents of a series of Managed Portfolio Shares, one of which will be deemed by the Investment Company's investment adviser as the Primary Intraday Indicative Value and the other the Secondary Intraday Indicative Value. The pricing verification agent will continuously compare the Primary Intraday Indicative Value against the Secondary Intraday Indicative Values to which the pricing verification agent has access. Where the pricing verification agent has verified the Primary Intraday Indicative Value as compared to the Secondary Intraday Indicative Value, the Primary Intraday Indicative Value will be used as the Verified Intraday Indicative Value and will be disseminated publicly during Regular Trading Hours for each series of Managed Portfolio Shares.[6]

Proposed Rule 14.11(k)(3)(C) defines the term ''Creation Unit'' as a specified minimum number of Managed Portfolio Shares issued by an Investment Company at the request of an AP in return for a designated portfolio of securities (and/or an amount of cash) specified each day consistent with the

[4] As defined in Rule 1.5(w), the term ''Regular Trading Hours'' means the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

[5] For purposes of this filing, references to a series of Managed Portfolio Shares are referred to interchangeably as a series of Managed Portfolio Shares or as a ''Fund'' and shares of a series of Managed Portfolio Shares are generally referred to as the ''Shares''.

[6] Each Calculation Engine is a computer that receives data from a real-time quote feed, calculates a price for the securities in the portfolio, and aggregates the weights of the securities in the portfolio to produce an intra-day indicative value.

Investment Company's investment objectives and policies.

Proposed Rule 14.11(k)(3)(D) defines the term ''Redemption Unit'' as a specified minimum number of Managed Portfolio Shares that may be redeemed to an Investment Company at the request of an AP in return for a portfolio of securities and/or cash.

Proposed Rule 14.11(k)(3)(E) defines the term ''Reporting Authority'' in respect of a particular series of Managed Portfolio Shares as the Exchange, the exchange that lists a particular series of Managed Portfolio Shares (if the Exchange is trading such series pursuant to unlisted trading privileges), an institution, or a reporting service designated by the issuer of a series of Managed Portfolio Shares as the official source for calculating and reporting information relating to such series, including, the NAV, the VIIV, or other information relating to the issuance, redemption or trading of Managed Portfolio Shares. A series of Managed Portfolio Shares may have more than one Reporting Authority, each having different functions.

Proposed Rule 14.11(k)(3)(F) provides that the term ''Normal Market Conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues (*e.g.,* systems failure) causing dissemination of inaccurate market information; or force majeure type events such as natural or manmade disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

Proposed Rule 14.11(k)(4) sets forth initial and continued listing criteria applicable to Managed Portfolio Shares. Proposed Rule 14.11(k)(4)(A)(i) provides that, for each series of Managed Portfolio Shares, the Exchange will establish a minimum number of Managed Portfolio Shares required to be outstanding at the time of commencement of trading on the Exchange. In addition, proposed Rule 14.11(k)(4)(A)(ii) provides that the Exchange will obtain a representation from the issuer of each series of Managed Portfolio Shares that the NAV per share for the series will be calculated daily and that the NAV will be made available to all market participants at the same time.[7] Proposed Rule 14.11(k)(4)(A)(iii) provides that all Managed Portfolio Shares shall have a stated investment objective, which shall be adhered to under normal market conditions.

Proposed Rule 14.11(k)(4)(B) provides that each series of Managed Portfolio Shares will be listed and traded subject to application of the following continued listing criteria. Proposed Rule 14.11(k)(4)(B)(i) provides that the VIIV for Managed Portfolio Shares will be widely disseminated by the Reporting Authority and/or by one or more major market data vendors every second during Regular Trading Hours and will be disseminated to all market participants at the same time. Proposed Rule 14.11(k)(4)(B)(ii) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 14.12 for, a series of Managed Portfolio Shares under any of the following circumstances: (a) If, following the initial twelve-month period after commencement of trading on the Exchange of a series of Managed Portfolio Shares, there are fewer than 50 beneficial holders of the series of Managed Portfolio Shares; (b) if the value of the VIIV is no longer calculated or available to all market participants at the same time; (c) if the holdings of a series of Managed Portfolio Shares are not made available on a quarterly basis as required under the 1940 Act or are not made available to all market participants at the same time; (d) if the Investment Company issuing the Managed Portfolio Shares has failed to file any filings required by the Commission or if the Exchange is aware that the Investment Company is not in compliance with the conditions of any exemptive order or no-action relief granted by the Securities and Exchange Commission to the Investment Company with respect to the series of Managed Portfolio Shares; (e) if any of the continued listing requirements set forth in Rule 14.11(k) are not continuously maintained; (f) if any of the applicable Continued Listing Representations for the issue of Managed Fund Shares are not continuously met; or (g) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

Proposed Rule 14.11(k)(4)(B)(iii) provides that, upon notification to the Exchange by the Investment Company or its agent that: (i) the intraday indicative values calculated by more than one Calculation Engines differ by more than 25 basis points for 60 seconds in connection with pricing of the Verified Intraday Indicative Value; (ii) the Verified Intraday Indicative Value of a series of Managed Portfolio Shares is not being calculated or disseminated in one-second intervals, as required; or (iii) 10% or more of a series of Managed Portfolio Shares' portfolio holdings have become subject to a trading halt or otherwise do not have readily available market quotations, the Exchange shall halt trading in the Managed Portfolio Shares as soon as practicable. Such halt in trading shall continue until the Investment Company or its agent notifies the Exchange that the intraday indicative values calculated by the Calculation Engines no longer differ by more than 25 basis points for 60 seconds, that the Verified Intraday Indicative Value is being calculated and disseminated as required, or that less than 10% of the portfolio holdings are subject to a trading halt or otherwise do not have readily available market quotations. The Investment Company or its agent shall be responsible for monitoring that the Verified Intraday Indicative Value is being priced and disseminated as required and whether the intraday indicative values to be calculated by more than one Calculation Engines differ by more than 25 basis points for 60 seconds. In addition, if the Exchange becomes aware that the net asset value with respect to a series of Managed Portfolio Shares is not disseminated to all market participants at the same time, the holdings of a series of Managed Portfolio Shares are not made available on a quarterly basis as required under the 1940 Act, or such holdings are not made available to all market participants at the same time, it will halt trading in such series until such time as the net asset value or the holdings are available to all market participants.

Proposed Rule 14.11(k)(4)(B)(iv) provides that, upon termination of an Investment Company, the Exchange requires that Managed Portfolio Shares issued in connection with such entity be removed from Exchange listing.

Proposed Rule 14.11(k)(4)(B)(v) provides that voting rights shall be as set forth in the applicable Investment Company prospectus.

Proposed Rule 14.11(k)(5), which relates to limitation of Exchange liability, provides that neither the Exchange, the Reporting Authority, nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current portfolio value; the current value of the portfolio of securities required to be deposited to the open-end management investment company in connection with issuance of Managed Portfolio Shares; the VIIV; the amount of any dividend equivalent

[7] Proposed Rule 14.11(k)(4)(B)(iii) provides that if the Exchange becomes aware that the NAV with respect to a series of Managed Portfolio Shares is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the NAV is available to all market participants.

payment or cash distribution to holders of Managed Portfolio Shares; NAV; or other information relating to the purchase, redemption, or trading of Managed Portfolio Shares, resulting from any negligent act or omission by the Exchange, the Reporting Authority or any agent of the Exchange, or any act, condition, or cause beyond the reasonable control of the Exchange, its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission, or delay in the reports of transactions in one or more underlying securities.

Key Features of Managed Portfolio Shares

While funds issuing Managed Portfolio Shares will be actively-managed and, to that extent, similar to Managed Fund Shares, Managed Portfolio Shares differ from Managed Fund Shares in the following important respects.[8] First, in contrast to Managed Fund Shares, which are actively-managed funds listed and traded under Rule 14.11(i)[9] and for which a ''Disclosed Portfolio'' is required to be disseminated at least once daily,[10] the portfolio for a series of Managed Portfolio Shares will be disclosed quarterly in accordance with normal disclosure requirements otherwise applicable to open-end investment companies registered under the 1940 Act.[11] The composition of the portfolio of a series of Managed Portfolio Shares would not be available at commencement of Exchange listing and/or trading. Second, in connection with the creation and redemption of shares in ''Creation Unit'' or ''Redemption Unit'' size (as described below), the delivery of any portfolio securities in kind will be effected through a ''Confidential Account'' (as described below) for the benefit of the creating or redeeming AP (as described further below in ''Creation and Redemption of Shares'') without disclosing the identity of such securities to the AP.

For each series of Managed Portfolio Shares, an estimated value—the VIIV—that reflects an estimated intraday value of a fund's portfolio will be disseminated. Specifically, the VIIV will be based upon all of a series' holdings as of the close of the prior business day and, for corporate actions, based on the applicable holdings as of the opening of business on the current business day, and will be widely disseminated by the Reporting Authority and/or one or more major market data vendors every second during Regular Trading Hours. The dissemination of the VIIV will allow investors to determine the estimated intra-day value of the underlying portfolio of a series of Managed Portfolio Shares and will provide a close estimate of that value throughout the trading day.

The Exchange, after consulting with various Lead Market Makers (''LMMs'')[12] that trade exchange-traded funds (''ETFs'') on the Exchange, believes that market makers will be able to make efficient and liquid markets priced near the VIIV as long as a VIIV is disseminated every second,[13] and market makers employ market making techniques such as ''statistical arbitrage,'' including correlation hedging, beta hedging, and dispersion trading, which is currently used throughout the financial services industry, to make efficient markets in exchange-traded products.[14] This ability should permit market makers to make efficient markets in an issue of Managed Portfolio Shares without precise knowledge of a fund's underlying portfolio.[15]

To protect the identity and weightings of the portfolio holdings, a series of Managed Portfolio Shares would sell and redeem their shares in creation units to APs only through an unaffiliated broker-dealer acting on an agency basis, as further described below. As such, on each ''Business Day'' (as defined below), before commencement of trading in Shares on the Exchange, each series of Managed Portfolio Shares will provide to an AP Representative of each AP the identities and quantities of portfolio securities that will form the basis for a Fund's calculation of NAV per Share at the end of the Business Day, as well as the names and quantities of the instruments comprising a ''Creation Basket'' or the ''Redemption Instruments'' and the estimated ''Balancing Amount'' (if any) (as described below), for that day (as further described below). This information will permit APs to purchase

[8] The Exchange notes that these unique components of Managed Portfolio Shares were addressed in the Exemptive Order (specifically in the Application and Notice). Specifically, the Notice stated that the Commission ''believes that the alternative arbitrage mechanism proposed by Applicants can also work in an efficient manner to maintain an ActiveShares ETF's secondary market prices close to its NAV. The Commission recognizes, however, that the lack of full transparency may cause the ActiveShares ETFs to trade with spreads and premiums/discounts that are larger than those of comparable, fully transparent ETFs. Nonetheless, as long as arbitrage continues to keep the ActiveShares ETF's secondary market price and NAV close, and does so efficiently so that spreads remain narrow, the Commission believes that investors would benefit from the opportunity to invest in active strategies through a vehicle that offers the traditional benefits of ETFs.''

[9] The Commission approved a proposed rule change to adopt generic listing standards for Managed Fund Shares. *See* Securities Exchange Act Release No. 78396 (July 22, 2016), 81 FR 49698 (July 28, 2016 (SR–BATS–2015–100) (order approving proposed rule change to amend Rule 14.11(i) to adopt generic listing standards for Managed Fund Shares).

[10] BZX Rule 14.11(i)(3)(B) defines the term ''Disclosed Portfolio'' as the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company's calculation of NAV at the end of the business day. Rule 14.11(i)(4)(B)(ii)(a) requires that the Disclosed Portfolio will be disseminated at least once daily and will be made available to all market participants at the same time.

[11] A mutual fund is required to file with the Commission its complete portfolio schedules for the second and fourth fiscal quarters on Form N–CSR under the 1940 Act, and is required to file its complete portfolio schedules for the first and third fiscal quarters on Form N–Q under the 1940 Act, within 60 days of the end of the quarter. Form N–Q requires funds to file the same schedules of investments that are required in annual and semi-annual reports to shareholders. These forms are available to the public on the Commission's website at *www.sec.gov*.

[12] As defined in Exchange Rule 11.8(e)(1)(B), the term LMM means a Market Maker registered with the Exchange for a particular LMM Security that has committed to maintain Minimum Performance Standards in the LMM Security.

[13] The Exchange notes that the Commission reached the same conclusion in the Notice, specifically stating: ''The Commission believes that the alternative arbitrage mechanism proposed by Applicants can also work in an efficient manner to maintain an ActiveShares ETF's secondary market prices close to its NAV.'' *See* the Notice at 19.

[14] Statistical arbitrage enables a trader to construct an accurate proxy for another instrument, allowing it to hedge the other instrument or buy or sell the instrument when it is cheap or expensive in relation to the proxy. Statistical analysis permits traders to discover correlations based purely on trading data without regard to other fundamental drivers. These correlations are a function of differentials, over time, between one instrument or group of instruments and one or more other instruments. Once the nature of these price deviations have been quantified, a universe of securities is searched in an effort to, in the case of a hedging strategy, minimize the differential. Once a suitable hedging proxy has been identified, a trader can minimize portfolio risk by executing the hedging basket. The trader then can monitor the performance of this hedge throughout the trade period making correction where warranted. In the case of correlation hedging, the analysis seeks to find a proxy that matches the pricing behavior of a fund. In the case of beta hedging, the analysis seeks to determine the relationship between the price movement over time of a fund and that of another stock.

Dispersion trading is a hedged strategy designed to take advantage of relative value differences in implied volatilities between an index and the component stocks of that index.

[15] APs that enter into their own separate Confidential Accounts shall have enough information to ensure that they are able to comply with applicable regulatory requirements. For example, for purposes of net capital requirements, the maximum Securities Haircut applicable to the securities in a Creation Basket, as determined under Rule 15c3–1, will be disclosed daily on each Fund's website.

''Creation Units'' or redeem ''Redemption Units'' through an in-kind transaction with a Fund, as described below.

Using various trading methodologies such as statistical arbitrage, both APs and other market participants will be able to hedge exposures by trading correlative portfolios, securities or other proxy instruments, thereby enabling an arbitrage functionality throughout the trading day. For example, if an AP believes that Shares of a Fund are trading at a price that is higher than the value of its underlying portfolio based on the VIIV, the AP may sell Shares short and purchase securities that the AP believes will track the movements of a Fund's portfolio until the spread narrows and the AP executes offsetting orders or the AP enters an order with its AP Representative to create Fund Shares. Upon the completion of the Creation Unit, the AP will unwind its correlative hedge. Similarly, a non-AP market participant would be able to perform an identical function but, because it would not be able to create or redeem directly, would have to employ an AP to create or redeem Shares on its behalf.

APs can engage in arbitrage by creating or redeeming Shares if the AP believes the Shares are overvalued or undervalued. As discussed above, the trading of a Fund's Shares and the creation or redemption of portfolio securities may bring the prices of a Fund's Shares and its portfolio assets closer together through market pressure.

The AP Representative's execution of a Creation Unit in a Confidential Account,[16] combined with the sale of Fund Shares in the secondary market by the AP, may create downward pressure on the price of Shares and/or upward pressure on the price of the portfolio securities, bringing the market price of Shares and the value of a Fund's portfolio securities closer together. Similarly, an AP could buy Shares and instruct the AP Representative to redeem Fund Shares and liquidate underlying portfolio securities in a Confidential Account. The AP's purchase of a Fund's Shares in the secondary market, combined with the liquidation of the portfolio securities from its Confidential Account by an AP Representative, may also create upward pressure on the price of Shares and/or downward pressure on the price of portfolio securities, driving the market price of Shares and the value of a Fund's portfolio securities closer together.

The Exchange understands that traders use statistical analysis to derive correlations between different sets of instruments to identify opportunities to buy or sell one set of instruments when it is mispriced relative to the others. For Managed Portfolio Shares, market makers may use the knowledge of a Fund's means of achieving its investment objective, as described in the applicable Fund registration statement (the ''Registration Statement''), to construct a hedging proxy for a Fund to manage a market maker's quoting risk in connection with trading Fund Shares. Market makers can then conduct statistical arbitrage between their hedging proxy (for example, the Russell 1000 Index) and Shares of a Fund, buying and selling one against the other over the course of the trading day. They will evaluate how their proxy performed in comparison to the price of a Fund's Shares, and use that analysis as well as knowledge of risk metrics, such as volatility and turnover, to enhance their proxy calculation to make it a more efficient hedge.

Market makers have indicated to the Exchange that there will be sufficient data to run a statistical analysis which will lead to spreads being tightened substantially around the VIIV. This is similar to certain other existing exchange traded products (for example, ETFs that invest in foreign securities that do not trade during U. S. trading hours), in which spreads may be generally wider in the early days of trading and then narrow as market makers gain more confidence in their real-time hedges.

Creations and Redemptions of Shares

In connection with the creation and redemption of Creation Units and Redemption Units, the delivery or receipt of any portfolio securities in-kind will be required to be effected through a separate confidential brokerage account (*i.e.,* a Confidential Account) with an AP Representative,[17] which will be a bank or broker-dealer such as broker-dealer affiliates of JP Morgan Chase, State Street Bank and Trust, or Bank of New York Mellon, for the benefit of an AP.[18] An AP must be a Depository Trust Company (''DTC'') Participant that has executed a ''Participant Agreement'' with the applicable distributor (the ''Distributor'') with respect to the creation and redemption of Creation Units and Redemption Units and formed a Confidential Account for its benefit in accordance with the terms of the Participant Agreement. For purposes of creations or redemptions, all transactions will be effected through the respective AP's Confidential Account, for the benefit of the AP without disclosing the identity of such securities to the AP.

Each AP Representative will be given, before the commencement of trading each Business Day (defined below), the ''Creation Basket'' (as described below) for that day. This information will permit an AP that has established a Confidential Account with an AP Representative, to instruct the AP Representative to buy and sell positions in the portfolio securities to permit creation and redemption of Creation Units and Redemption Units.

In the case of a creation, the AP would enter into an irrevocable creation order with a Fund and then direct the AP Representative to purchase the necessary basket of portfolio securities. The AP Representative would then purchase the necessary securities in the Confidential Account. In purchasing the necessary securities, the AP Representative would be required, by the terms of the Confidential Account Agreement, to obfuscate the purchase by use of tactics such as breaking the purchase into multiple purchases and transacting in multiple marketplaces. Once the necessary basket of securities has been acquired, the purchased securities held in the Confidential Account would be contributed in-kind to the applicable Fund.

The Funds will offer and redeem Creation Units and Redemption Units on a continuous basis at the NAV per Share next determined after receipt of an order in proper form. The NAV per Share of each Fund will be determined as of the close of regular trading each business day. Funds will sell and redeem Creation Units and Redemption Units only on Business Days.

In order to keep costs low and permit Funds to be as fully invested as possible, Shares will be purchased and redeemed in Creation Units and Redemption Units and generally on an

[16] A Confidential Account is a restricted account owned by an AP and held at a broker-dealer who will act as an AP Representative (execution agent acting on agency basis) on their behalf. The restricted account will be established and governed via contract and used solely for creation and redemption activity, while protecting the confidentiality of the portfolio constituents. For reporting purposes, the books and records of the Confidential Account will be maintained by the AP Representative and provided to the appropriate regulatory agency as required. The Confidential Account will be liquidated daily, so that the account holds no positions at the end of day.

[17] Each AP shall enter into its own separate Confidential Account with an AP Representative.

[18] In the event that an AP Representative is a bank, the bank will be required to have an affiliated broker-dealer to accommodate the execution of hedging transactions on behalf of the holder of a Confidential Account.

in-kind basis. Accordingly, except where the purchase or redemption will include cash under the circumstances described in the Registration Statement, APs will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and APs redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'') through the AP Representative in their Confidential Account.[19] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, and these instruments may be referred to, in the case of either a purchase or a redemption, as the ''Creation Basket.''

As noted above, each AP will be required to establish a Confidential Account with an AP Representative and transact with each Fund through that Confidential Account.[20] Therefore, before the commencement of trading on each Business Day, the AP Representative of each AP will be provided, on a confidential basis and at the same time as other AP Representatives, with a list of the names and quantities of the instruments comprising a Creation Basket, as well as the estimated Balancing Amount (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intra-day changes to the Creation Basket except to correct errors in the published Creation Basket. The instruments and cash that the purchaser is required to deliver in exchange for the Creation Units it is purchasing are referred to as the ''Portfolio Deposit.''

APs will enter into an agreement with an AP Representative to open a Confidential Account, for the benefit of the AP. The AP Representative will serve as an agent between a Fund and each AP and act as a broker-dealer on behalf of the AP. Each day, the Custodian (defined below) will transmit the applicable Fund constituent file to each AP Representative and, acting on execution instructions from the AP,[21] the AP Representative may purchase or sell the securities currently held in a Fund's portfolio for purposes of effecting in-kind creation and redemption activity during the day.[22]

Other market participants will not have the ability to create or redeem shares directly with a Fund. Rather, if other market participants wish to create or redeem Shares in a Fund, it will have to do so through an AP.

Placement of Purchase Orders

Each Fund will issue Shares through the Distributor on a continuous basis at NAV. The Exchange represents that the issuance of Shares will operate in a manner substantially similar to that of other ETFs. Each Fund will issue Shares only at the NAV per Share next determined after an order in proper form is received.

The Distributor will furnish acknowledgements to those placing orders that the orders have been accepted, but the Distributor may reject any order which is not submitted in proper form, as described in a Fund's prospectus or Statement of Additional Information (''SAI''). The NAV of each Fund is expected to be determined once each Business Day at a time determined by the Trust's Board of Directors (''Board''), currently anticipated to be as of the close of the regular trading session on the NYSE (ordinarily 4:00 p.m. E.T.) (the ''Valuation Time''). Each Fund will establish a cut-off time (''Order Cut-Off Time'') for purchase orders in proper form. To initiate a purchase of Shares, an AP must submit to the Distributor an irrevocable order to purchase such Shares after the most recent prior Valuation Time.

Purchases of Shares will be settled in-kind and/or cash for an amount equal to the applicable NAV per Share purchased plus applicable ''Transaction Fees,'' as discussed below.

Generally, all orders to purchase Creation Units must be received by the Distributor no later than the end of Regular Trading Hours on the date such order is placed (''Transmittal Date'') in order for the purchaser to receive the NAV per Share determined on the Transmittal Date. In the case of custom orders made in connection with creations or redemptions in whole or in part in cash, the order must be received by the Distributor, no later than the Order Cut-Off Time.[23] The Distributor will maintain a record of Creation Unit purchases and will send out confirmations of such purchases upon receipt.[24]

Purchases of Shares—Secondary Market

Only APs will be able to acquire Shares at NAV directly from a Fund through the Distributor. The required payment must be transferred in the manner set forth in a Fund's SAI by the specified time on the Transmittal Date. These investors and others will also be able to purchase Shares in secondary market transactions at prevailing market prices.

Redemption

Beneficial Owners may sell their Shares in the secondary market. Alternatively, investors that own enough Shares to constitute a Redemption Unit or multiples thereof may redeem those Shares through the Distributor, which will act as the Trust's representative for redemption. The size of a Redemption Unit will be subject to change. Redemption orders for Redemption Units or multiples thereof must be placed by or through an AP.

Authorized Participant Redemption

The Shares may be redeemed to a Fund in Redemption Unit size or multiples thereof as described below. Redemption orders of Redemption Units must be placed by or through an AP (''AP Redemption Order''). Each Fund will establish an Order Cut-Off Time for redemption orders of Redemption Units

[19] Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the 1933 Act.

[20] Transacting through a Confidential Account is designed to be very similar to transacting through any broker-dealer account, except that the AP Representative will be bound to keep the names and weights of the portfolio securities confidential. Each service provider that has access to the identity and weightings of securities in a Fund's Creation Basket or portfolio securities, such as a Fund's Custodian or pricing verification agent, shall be restricted contractually from disclosing that information to any other person, or using that information for any purpose other than providing services to the Fund. To comply with certain recordkeeping requirements applicable to APs, the AP Representative will maintain and preserve, and make available to the Commission, certain required records related to the securities held in the Confidential Account.

[21] An AP will issue execution instructions to the AP Representative and be responsible for all associated profit or losses. Like a traditional ETF, the AP has the ability to sell the basket securities at any point during Regular Trading Hours.

[22] Each Fund will identify one or more entities to enter into a contractual arrangement with the Fund to serve as an AP Representative. In selecting entities to serve as AP Representatives, a Fund will obtain representations from the entity related to the confidentiality of the Fund's Creation Basket and portfolio securities, the effectiveness of information barriers, and the adequacy of insider trading policies and procedures. In addition, as a broker-dealer, Section 15(g) of the Act requires the AP Representative to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material, nonpublic information by the AP Representative or any person associated with the AP Representative.

[23] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis, as provided in the Registration Statement.

[24] An AP Representative will provide information related to creations and redemption of Creation Units and Redemption Units to the Financial Industry Regulatory Authority (''FINRA'') upon request.

in proper form. Redemption Units of a Fund will be redeemable at their NAV per Share next determined after receipt of a request for redemption by the Trust in the manner specified below before the Order Cut-Off Time. To initiate an AP Redemption Order, an AP must submit to the Distributor an irrevocable order to redeem such Redemption Unit after the most recent prior Valuation Time but not later than the Order Cut-Off Time.

In the case of a redemption, the AP would enter into an irrevocable redemption order, and then instruct the AP Representative to sell the underlying basket of securities that it will receive in the redemption. As with the purchase of securities, the AP Representative would be required to obfuscate the sale of the portfolio securities it will receive as redemption proceeds using similar tactics.

Consistent with the provisions of Section 22(e) of the 1940 Act and Rule 22e-2 thereunder, the right to redeem will not be suspended, nor payment upon redemption delayed, except for: (1) Any period during which the Exchange is closed other than customary weekend and holiday closings, (2) any period during which trading on the Exchange is restricted, (3) any period during which an emergency exists as a result of which disposal by a Fund of securities owned by it is not reasonably practicable or it is not reasonably practicable for a Fund to determine its NAV, and (4) for such other periods as the Commission may by order permit for the protection of shareholders.

It is expected that redemptions will occur primarily in-kind, although redemption payments may also be made partly or wholly in cash. The Participant Agreement signed by each AP will require establishment of a Confidential Account to receive distributions of securities in-kind upon redemption.[25] Each AP will be required to open a Confidential Account with an AP Representative in order to facilitate orderly processing of redemptions.

After receipt of a Redemption Order, a Fund's custodian (''Custodian'') will typically deliver securities to the Confidential Account with a value approximately equal to the value of the Shares[26] tendered for redemption at the Cut-Off time. The Custodian will make delivery of the securities by appropriate entries on its books and records transferring ownership of the securities to the AP's Confidential Account, subject to delivery of the Shares redeemed. The AP Representative of the Confidential Account will in turn liquidate the securities based on instructions from the AP.[27] The AP Representative will pay the liquidation proceeds net of expenses plus or minus any cash balancing amount to the AP through DTC.[28] The redemption securities that the Confidential Account receives are expected to mirror the portfolio holdings of a Fund pro rata. To the extent a Fund distributes portfolio securities through an in-kind distribution to more than one Confidential Account for the benefit of the accounts' respective APs, each Fund expects to distribute a pro rata portion of the portfolio securities selected for distribution to each redeeming AP.

If the AP would receive a security that it is restricted from receiving, for example if the AP is engaged in a distribution of the security, a Fund will deliver cash equal to the value of that security. APs and non-AP market participants will provide the AP Representative with a list of restricted securities applicable to the AP or non-AP market participants on a daily basis, and a Fund will substitute cash for those securities in the applicable Confidential Account.

To address odd lots, fractional shares, tradeable sizes or other situations where dividing securities is not practical or possible, the adviser may make minor adjustments to the pro rata portion of portfolio securities selected for distribution to each redeeming AP on such Business Day.

The Trust will accept a Redemption Order in proper form. A Redemption Order is subject to acceptance by the Trust and must be preceded or accompanied by an irrevocable commitment to deliver the requisite number of Shares. At the time of settlement, an AP will initiate a delivery of the Shares plus or minus any cash balancing amounts, and less the expenses of liquidation.

Pricing Calculations

According to the Notice, the pricing verification agent, on behalf of each Fund, will utilize two separate calculation engines to calculate intra-day indicative values (''Calculation Engines''), based on the mid-point between the current national best bid and offer disseminated by the Consolidated Quotation System (''CQS'') and Unlisted Trading Privileges Plan Securities Information Processor,[29] to provide the estimated real-time value on a per Share basis of each Fund's holdings every second during the Exchange's Regular Trading Hours.[30] The Custodian will provide, on a daily basis, the identities and quantities of portfolio securities that will form the basis for the applicable Fund's calculation of NAV at the end of the Business Day,[31] plus any cash in the portfolio, to the pricing verification agent for purposes of calculating the VIIV.[32]

[25] The terms of each Confidential Account will be set forth as an exhibit to the applicable Participant Agreement, which will be signed by each AP. The terms of the Confidential Account will provide that the trust be formed under applicable state laws; the custodian may act as AP Representative of the Confidential Account; and the AP Representative will be paid by the AP a fee negotiated directly between the APs and the AP Representative(s).

[26] If the NAV of the Shares redeemed differs from the value of the securities delivered to the applicable Confidential Account, the applicable Fund will receive or pay a cash balancing amount to compensate for the difference between the value of the securities delivered and the NAV.

[27] An AP will issue execution instructions to the AP Representative and be responsible for all associated profit or losses. Like a traditional ETF, the AP has the ability to sell the basket securities at any point during Regular Trading Hours.

[28] Under applicable provisions of the Internal Revenue Code, the AP is expected to be deemed a ''substantial owner'' of the Confidential Account because it receives distributions from the Confidential Account. As a result, all income, gain or loss realized by the Confidential Account will be directly attributed to the AP. In a redemption, the AP will have a basis in the distributed securities equal to the fair market value at the time of the distribution and any gain or loss realized on the sale of those Shares will be taxable income to the AP.

[29] According to the Exemptive Order, all Commission-registered exchanges and market centers send their trades and quotes to a central consolidator where the Consolidated Tape System (CTS) and CQS data streams are produced and distributed worldwide. See *https://www.ctaplan.com/index*. Although there is only one source of market quotations, each Calculation Engine will receive the data directly and calculate an indicative value separately and independently from each other Calculation Engine.

[30] Dissemination of VIIV at one second intervals (as compared to every fifteen seconds for existing ETFs) helps to strike a balance between providing all investors with useable information at a rate that can be processed by retail investors, does not provide so much information so as to allow market participants to accurately determine the constituents, and their weightings, of the portfolio, can be accurately calculated and disseminated, and still provides professional traders with per second data.

[31] Trades made on the prior Business Day (T) will be booked and reflected in the NAV on the current Business Day (T+1). Thus, the VIIV calculated throughout the day will be based on the same portfolio as is used to calculate the NAV on that day.

[32] The Commission opined in the Notice that Precidian has addressed the concerns previously noted by the Commission with respect to reliance on the typical 15-second intraday indicative value for arbitrage purposes, by creating a VIIV that: (i) would be calculated and disseminated every second; and (ii) has precise and uniform parameters for calculation across all Funds, including that the Funds and their respective adviser take responsibility for its calculation. The Notice additionally highlights that arbitrage is further facilitated and those concerns are addressed

According to the Notice, it is anticipated that each Calculation Engine could be using some combination of different hardware, software and communications platforms to process the CQS data. Different hardware platforms' operating systems could be receiving and calculating the CQS data inputs differently, potentially resulting in one Calculation Engine processing the indicative value in a different time slice than another Calculation Engine's system, thus processing values in different sequences. The processing differences between different Calculation Engines will most likely be in the sub-second range. Consequently, the frequency of occurrence of out of sequence values among different Calculation Engines due to differences in operating system environments should be minimal. Other factors that could result in sequencing that is not uniform among the different Calculation Engines are message gapping, internal system software design, and how the CQS data is transmitted to the Calculation Engine. While the expectation is that the Primary Intraday Indicative Value and Secondary Intraday Indicative Value will generally match, having dual streams of redundant data that must be compared by the pricing verification agent will provide an additional check that the resulting VIIV is accurate.

According to the Notice, each Fund's Board has a responsibility to oversee the process of calculating an accurate VIIV and to make an affirmative determination, at least annually, that the procedures used to calculate the VIIV and maintain its accuracy are, in its reasonable business judgment, appropriate. These procedures and their continued effectiveness will be subject to the ongoing oversight of each Fund's chief compliance officer. The specific methodology for calculating the VIIV will be disclosed on each Fund's website. While each Fund will oversee the calculation of the VIIV, a Fund will utilize at two Calculation Engines.

Availability of Information

As noted above, a mutual fund is required to file with the Commission its complete portfolio schedules for the second and fourth fiscal quarters on Form N–CSR under the 1940 Act, and is required to file its complete portfolio schedules for the first and third fiscal quarters on Form N–Q under the 1940 Act, within 60 days of the end of the quarter. Form N–Q requires funds to file the same schedules of investments that are required in annual and semi-annual reports to shareholders. The Trust's SAI and each Fund's shareholder reports will be available free upon request from the Trust. These documents and forms may be viewed on-screen or downloaded from the Commission's website at *www.sec.gov.*

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line. In addition, the VIIV, as defined in proposed Rule 14.11(k)(3)(B) and as described further below, will be widely disseminated by the Reporting Authority and/or one or more major market data vendors every second during Regular Trading Hours.

Dissemination of the VIIV

The VIIV, which is approximate value of each Fund's investments on a per Share basis, will be disseminated every second during Regular Trading Hours. The VIIV should not be viewed as a ''real-time'' update of NAV because the VIIV may not be calculated in the same manner as NAV, which is computed once per day.

The VIIV for each Fund will be disseminated by the Reporting Authority and/or one or more major market data vendors in one-second intervals during Regular Trading Hours. Each Fund will adopt procedures governing the calculation of the VIIV. For purposes of the VIIV, securities held by a Fund will be valued throughout the day based on the mid-point between the disseminated current national best bid and offer. If the adviser for a Fund determines that the mid-point of the bid/ask spread is inaccurate, a Fund will use fair value pricing based on the procedures described above. That fair value pricing will be carried over to the next day's VIIV until the first trade in that stock is reported unless the adviser deems a particular portfolio security to be illiquid and/or the available ongoing pricing information unlikely to be reliable. In such case, that fact will be disclosed as soon as practicable on each Fund's website, including the identity and weighting of that security in a Fund's portfolio, and the impact of that security on VIIV calculation, including the fair value price for that security being used for the calculation of that day's VIIV.

By utilizing the mid-point pricing for purposes of VIIV calculation, stale prices are eliminated and more accurate representation of the real time value of the underlying securities is provided to the market. Specifically, quotations based on the mid-point of bid/ask spreads more accurately reflect current market sentiment by providing real time information on where market participants are willing to buy or sell securities at that point in time. Using quotations rather than last sale information addresses concerns regarding the staleness of pricing information of less actively traded securities. Because quotations are updated more frequently than last sale information especially for inactive securities, the VIIV will be based on more current and accurate information. The use of quotations will also dampen the impact of any momentary spikes in the price of a portfolio security.

The pricing verification agent will continuously compare the Primary Intraday Indicative Value against a non-public Secondary Intraday Indicative Value to which the pricing verification agent has access. Where the pricing verification agent has verified the Primary Intraday Indicative Value as compared to the Secondary Intraday Indicative Value, the Primary Intraday Indicative Value will be used as the Verified Intraday Indicative Value and will be disseminated publicly during Regular Trading Hours for each series of Managed Portfolio Shares. Upon notification to the Exchange by the issuer of a series of Managed Portfolio Shares or its agent that the Primary Intraday Indicative Value and the Secondary Intraday Indicative Value differ by more than 25 basis points for 60 seconds, the Exchange will halt trading as soon as practicable in a Fund until the discrepancy is resolved.[33] Each Fund's Board will review the procedures used to calculate the VIIV and maintain its accuracy as appropriate, but not less than annually. The specific methodology for

because each Fund also will only invest in certain securities that trade on a U.S. exchange, contemporaneously with the Fund's Shares. Because the securities are exchange traded, Precidian asserted that the AP Representative would be able to promptly buy or sell the basket securities that it exchanges with the Funds on behalf of an AP upon receiving an order to enter into a creation or redemption transaction. The portfolio holdings' secondary market, moreover, would provide reliable price inputs for the VIIV calculation.

[33] Any small divergence of less than 25 basis points would be lower than the average bid/ask spread for actively managed ETFs, and relatively immaterial to the overall indicative value. A continuous deviation for sixty seconds could indicate an error in the feed or in a Calculation Engine.

calculating the VIIV will be disclosed on each Fund's website.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the Exchange only during Regular Trading Hours as provided in proposed Rule 14.11(k)(2)(B). As provided in BZX Rule 11.11(a), the minimum price variation for quoting and entry of orders in securities traded on the Exchange is $0.01, with the exception of securities that are priced less than $1.00, for which the minimum price variation for order entry is $0.0001.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of Managed Portfolio Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of Managed Portfolio Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Portfolio Shares. The Exchange will require the issuer of each series of Managed Portfolio Shares listed on the Exchange to represent to the Exchange that it will advise the Exchange of any failure by a Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Circular

Prior to the commencement of trading of a series of Managed Portfolio Shares, the Exchange will inform its members in an Information Circular (''Circular'') of the special characteristics and risks associated with trading the Shares. Specifically, the Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares; (2) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the VIIV is disseminated; (4) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) trading information; and (6) that the portfolio holdings of the Shares are not disclosed on a daily basis.

In addition, the Circular will reference that Funds are subject to various fees and expenses described in the Registration Statement. The Circular will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Circular will also disclose that the NAV for the Shares will be calculated after 4:00 p.m., E.T. each trading day.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act [34] in general and Section 6(b)(5) of the Act [35] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that proposed Rule 14.11(k) is designed to prevent fraudulent and manipulative acts and practices in that the proposed rules relating to listing and trading of Managed Portfolio Shares provide specific initial and continued listing criteria required to be met by such securities. Proposed Rule 14.11(k)(4) sets forth initial and continued listing criteria applicable to Managed Portfolio Shares. Proposed Rule 14.11(k)(4)(A)(i) provides that, for each series of Managed Portfolio Shares, the Exchange will establish a minimum number of Managed Portfolio Shares required to be outstanding at the time of commencement of trading on the Exchange. In addition, proposed Rule 14.11(k)(4)(A)(ii) provides that the Exchange will obtain a representation from the issuer of each series of Managed Portfolio Shares that the NAV per share for the series will be calculated daily and that the NAV will be made available to all market participants at the same time.[36] Proposed Rule 14.11(k)(4)(A)(iii) provides that all Managed Portfolio Shares shall have a stated investment objective, which shall be adhered to under normal market conditions.

Proposed Rule 14.11(k)(4)(B) provides that each series of Managed Portfolio Shares will be listed and traded subject to application of the specified continued listing criteria, as described above. Proposed Rule 14.11(k)(4)(B)(i) provides that the VIIV for Managed Portfolio Shares will be widely disseminated by the Reporting Authority and/or one or more major market data vendors every second during Regular Trading Hours. Proposed Rule 14.11(k)(4)(B)(ii) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 14.12 for, a series of Managed Portfolio Shares under any of the following circumstances: (a) If, following the initial twelve-month period after commencement of trading on the Exchange of a series of Managed Portfolio Shares, there are fewer than 50 beneficial holders of the series of Managed Portfolio Shares; (b) if the value of the Verified Intraday Indicative Value is no longer calculated or available to all market participants at the same time; (c) if the holdings of a series of Managed Portfolio Shares are not made available on a quarterly basis as required under the 1940 Act or are not made available to all market participants at the same time; (d) if the Investment Company issuing the Managed Portfolio Shares has failed to file any filings required by the Securities and Exchange Commission or if the Exchange is aware that the Investment Company is not in compliance with the conditions of any exemptive order or no-action relief granted by the Securities and Exchange Commission to the Investment Company with respect to the series of Managed Portfolio Shares; (e) if any of the continued listing requirements set forth in Rule 14.11(k) are not continuously maintained; (f) if any of the applicable Continued Listing Representations for the issue of Managed Fund Shares are not continuously met; or (g) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. Proposed Rule 14.11(k)(4)(B)(iii) provides that, upon notification to the Exchange by the Investment Company or its agent that (i) the Primary Intraday Indicative Value and Secondary Intraday Indicative Value, to be compared by the applicable Investment Company's pricing verification agent, differ by more than

[34] 15 U.S.C. 78f.

[35] 15 U.S.C. 78f(b)(5).

[36] Proposed Rule 14.11(k)(4)(B)(iii) provides that if the Exchange becomes aware that the NAV with respect to a series of Managed Portfolio Shares is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the NAV is available to all market participants.

25 basis points for 60 seconds in connection with pricing of the VIIV, or (ii) that the VIIV of a series of Managed Portfolio Shares is not being calculated or disseminated in one-second intervals, as required, the Exchange shall halt trading in the Managed Portfolio Shares as soon as practicable. Such halt in trading shall continue until the Investment Company or its agent notifies the Exchange that the intraday indicative values no longer differ by more than 25 basis points for 60 seconds or that the VIIV is being calculated and disseminated as required. Proposed Rule 14.11(k)(4)(B)(iv) provides that, upon termination of an Investment Company, the Exchange requires that Managed Portfolio Shares issued in connection with such entity be removed from Exchange listing. Proposed Rule 14.11(k)(4)(B)(v) provides that voting rights shall be as set forth in the applicable Investment Company prospectus.

Proposed Rule 14.11(k)(2)(E) provides that, if the investment adviser to the Investment Company issuing Managed Portfolio Shares is registered as a broker-dealer or is affiliated with a broker-dealer such investment adviser will erect and maintain a ''fire wall'' between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition and/or changes to such Investment Company portfolio. Proposed Rule 14.11(k)(2)(F) provides that, if an AP Representative, the Custodian or pricing verification agent for an Investment Company issuing Managed Portfolio Shares, or any other entity that has access to information concerning the composition and/or changes to such Investment Company's portfolio, is registered as a broker-dealer or affiliated with a broker-dealer, such AP Representative, custodian, pricing verification agent or other entity will erect and maintain a ''fire wall'' between such AP Representative, custodian, pricing verification agent, or other entity and personnel of the broker- dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition and/or changes to such Investment Company portfolio. Personnel who make decisions on the Investment Company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company portfolio.[37]

The Exchange, after consulting with various LMMs that trade ETFs on the Exchange, believes that market makers will be able to make efficient and liquid markets priced near the VIIV, as long as market makers have knowledge of a Fund's means of achieving its investment objective even without daily disclosure of a fund's underlying portfolio.[38] The Exchange believes that market makers will employ risk-management techniques to make efficient markets in exchange traded products. This ability should permit market makers to make efficient markets in shares without knowledge of a fund's underlying portfolio.

The Exchange understands that traders use statistical analysis to derive correlations between different sets of instruments to identify opportunities to buy or sell one set of instruments when it is mispriced relative to the others. For Managed Portfolio Shares, market makers utilizing statistical arbitrage use the knowledge of a fund's means of achieving its investment objective, as described in the applicable fund registration statement, to construct a hedging proxy for a fund to manage a market maker's quoting risk in connection with trading fund shares. Market makers will then conduct statistical arbitrage between their hedging proxy (for example, the Russell 1000 Index) and shares of a fund, buying and selling one against the other over the course of the trading day. Eventually, at the end of each day, they will evaluate how their proxy performed in comparison to the price of a fund's shares, and use that analysis as well as knowledge of risk metrics, such as volatility and turnover, to enhance their proxy calculation to make it a more efficient hedge.

Market makers have indicated to the Exchange that there will be sufficient data to run a statistical analysis which will lead to spreads being tightened substantially around the VIIV. This is similar to certain other existing exchange traded products (for example, ETFs that invest in foreign securities that do not trade during U. S. trading hours), in which spreads may be generally wider in the early days of trading and then narrow as market makers gain more confidence in their real-time hedges.

The LMMs also indicated that, as with some other new exchange- traded products, spreads would tend to narrow as market makers gain more confidence in the accuracy of their hedges and their ability to adjust these hedges in real-time relative to the published VIIV and gain an understanding of the applicable market risk metrics such as volatility and turnover, and as natural buyers and sellers enter the market. Other relevant factors cited by LMMs were that a fund's investment objectives are clearly disclosed in the applicable prospectus, the existence of quarterly portfolio disclosure and the ability to create shares in creation unit size or redeem in redemption unit size through an AP.

The real-time dissemination of a Fund's VIIV together with the right of APs to create and redeem each day at the NAV will be sufficient for market participants to value and trade Shares in a manner that will not lead to

[37] The Exchange notes that the Order dismissed concerns raised by a third party related to potential violation of Section 10(b) of the Act, stating that ''Contrary to the contentions advanced in the third-party submissions, the provision of the basket composition information to the AP Representative or use of that information by the AP Representative as provided for in the Application should not give rise to insider trading violations under section 10(b) of the Exchange Act.'' The notice goes on to say that ''an unaffiliated broker-dealer (''AP Representative'') acting as an agent of another broker-dealer (''AP'')will be given information concerning the identity and weightings of the basket of securities that the ETF would exchange for its shares (but not information concerning the issuers of those underlying securities). The AP Representative is provided this information by the ETF so that, pursuant to instructions received from an AP, the AP Representative may undertake the purchase or redemption of the ETF's Shares (in the form of creation units) and the purchase or sale of the basket of securities that are exchanged for creation units. The ETFs will provide this information to an AP Representative on a confidential basis, the AP Representative is subject to a duty of non-disclosure (which includes an obligation not to provide this information to an AP), and the AP Representative may not use the information in any way except to facilitate the operation of the ETF by purchasing or selling the basket of securities and to exchange it with the ETF to complete an AP's orders to purchase or redeem the ETF's Shares.6Furthermore, section 15(g) of the Exchange Act requires an AP Representative, as a registered broker, to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information by the AP Representative or any person associated with the AP Representative.'' The Order goes on to say ''For the foregoing reasons, it is found that granting the requested exemptions is appropriate in and consistent with the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. It is further found that the terms of the proposed transactions, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transactions are consistent with the policy of each registered investment company concerned and with the general purposes of the Act.''

[38] The Exchange notes that the Commission reached the same conclusion in the Notice, specifically stating: ''The Commission believes that the alternative arbitrage mechanism proposed by Applicants can also work in an efficient manner to maintain an ActiveShares ETF's secondary market prices close to its NAV.'' *See* the Notice at 19.

significant deviations between the shares' Bid/Ask Price and NAV.

The pricing efficiency with respect to trading a series of Managed Portfolio Shares will generally rest on the ability of market participants to arbitrage between the Shares and a fund's portfolio, in addition to the ability of market participants to assess a fund's underlying value accurately enough throughout the trading day in order to hedge positions in shares effectively. Professional traders can buy Shares that they perceive to be trading at a price less than that which will be available at a subsequent time, and sell Shares they perceive to be trading at a price higher than that which will be available at a subsequent time. It is expected that, as part of their normal day-to-day trading activity, market makers assigned to Shares by the Exchange, off-exchange market makers, firms that specialize in electronic trading, hedge funds and other professionals specializing in short-term, non-fundamental trading strategies will assume the risk of being ''long'' or ''short'' shares through such trading and will hedge such risk wholly or partly by simultaneously taking positions in correlated assets [39] or by netting the exposure against other, offsetting trading positions—much as such firms do with existing ETFs and other equities. Disclosure of a fund's investment objective and principal investment strategies in its prospectus and SAI, along with the dissemination of the VIIV every second, should permit professional investors to engage easily in this type of hedging activity.[40]

With respect to trading of the Shares, the ability of market participants to buy and sell Shares at prices near the VIIV is dependent upon their assessment that the VIIV is a reliable, indicative real-time value for a Fund's underlying holdings. Market participants are expected to accept the VIIV as a reliable, indicative real-time value because (1) the VIIV will be calculated and disseminated based on a Fund's actual portfolio holdings, (2) the securities in which a Fund plans to invest are generally highly liquid and actively traded and therefore generally have accurate real time pricing available, and (3) market participants will have a daily opportunity to evaluate whether the VIIV at or near the close of trading is indeed predictive of the actual NAV.[41]

In a typical index-based ETF, it is standard for APs to know what securities must be delivered in a creation or will be received in a redemption. For Managed Portfolio Shares, however, APs do not need to know the securities comprising the portfolio of a Fund since creations and redemptions are handled through the Confidential Account mechanism. In-kind creations and redemptions through a Confidential Account are expected to preserve the integrity of the active investment strategy and reduce the potential for ''free riding'' or ''front-running,'' while still providing investors with the advantages of the ETF structure.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of an issue of Managed Portfolio Shares that the NAV per share of a fund will be calculated daily and that the NAV will be made available to all market participants at the same time. Investors can also obtain a fund's SAI, shareholder reports, and its Form N–CSR, Form N–Q and Form N–SAR. A fund's SAI and shareholder reports will be available free upon request from the applicable fund, and those documents and the Form N–CSR, Form N–Q and Form N–SAR may be viewed on-screen or downloaded from the Commission's website. In addition, a large amount of information will be publicly available regarding the Funds and the Shares, thereby promoting market transparency. Quotation and last sale information for the Shares will be available via the CTA high-speed line. Information regarding the VIIV will be widely disseminated every second throughout Regular Trading Hours by the Reporting Authority and/or one or more major market data vendors. The website for each Fund will include a form of the prospectus for the Fund that may be downloaded, and additional data relating to NAV and other applicable quantitative information, updated on a daily basis. Moreover, prior to the commencement of trading, the Exchange will inform its members in a Circular of the special characteristics and risks associated with trading the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the VIIV and quotation and last sale information for the Shares.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change, rather will facilitate the listing and trading of additional actively-managed

[39] Price correlation trading is used throughout the financial industry. It is used to discover both trading opportunities to be exploited, such as currency pairs and statistical arbitrage, as well as for risk mitigation such as dispersion trading and beta hedging. These correlations are a function of differentials, over time, between one or multiple securities pricing. Once the nature of these price deviations have been quantified, a universe of securities is searched in an effort to, in the case of a hedging strategy, minimize the differential. Once a suitable hedging basket has been identified, a trader can minimize portfolio risk by executing the hedging basket. The trader then can monitor the performance of this hedge throughout the trade period, making corrections where warranted.

[40] With respect to trading in the Shares, market participants would manage risk in a variety of ways. It is expected that market participants will be able to determine how to trade Shares at levels approximating the VIIV without taking undue risk by gaining experience with how various market factors (*e.g.,* general market movements, sensitivity of the VIIV to intraday movements in interest rates or commodity prices, etc.) affect VIIV, and by finding hedges for their long or short positions in Shares using instruments correlated with such factors. Market participants will likely initially determine the VIIV's correlation to a major large capitalization equity benchmark with active derivative contracts, such as the Russell 1000 Index, and the degree of sensitivity of the VIIV to changes in that benchmark. For example, using hypothetical numbers for illustrative purposes, market participants should be able to determine quickly that price movements in the Russell 1000 Index predict movements in a Fund's VIIV 95% of the time (an acceptably high correlation) but that the VIIV generally moves approximately half as much as the Russell 1000 Index with each price movement. This information is sufficient for market participants to construct a reasonable hedge—buy or sell an amount of futures, swaps or ETFs that track the Russell 1000 equal to half the opposite exposure taken with respect to Shares. Market participants will also continuously compare the intraday performance of their hedge to a Fund's VIIV. If the intraday performance of the hedge is correlated with the VIIV to the expected degree, market participants will feel comfortable they are appropriately hedged and can rely on the VIIV as appropriately indicative of a Fund's performance.

[41] The statements in the Statutory Basis section of this filing relating to pricing efficiency, arbitrage, and activities of market participants, including market makers and APs, are based on statements in the Exemptive Order, representations by Precidian, and review by the Exchange.

exchange-traded products that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

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 Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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–2019–047 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–2019–047. 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–2019–047 and should be submitted on or before July 16, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

**Vanessa A. Countryman,**

*Acting Secretary.*

[FR Doc. 2019–13413 Filed 6–24–19; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86153; File No. SR–NASDAQ–2019–051]**

## Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Chapter VI, Section 5 of the Rules of The Nasdaq Options Market To Extend Through December 31, 2019 or the Date of Permanent Approval, if Earlier, the Penny Pilot Program in Options Classes in Certain Issues

June 19, 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 14, 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 Chapter VI, Section 5 (Minimum Increments)[3] of the rules of The Nasdaq Options Market (''NOM'') to extend through December 31, 2019 or the date of permanent approval, if earlier, the Penny Pilot Program in options classes in certain issues (''Penny Pilot'' or ''Pilot'').

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 purpose of this filing is to amend Chapter VI, Section 5, to extend the Penny Pilot through December 31, 2019 or the date of permanent approval, if earlier.[4] The Exchange believes that extending the Penny Pilot will allow for further analysis of the Penny Pilot and a determination of how the program should be structured in the future.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are

[42] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] References herein to Chapter and Series refer to rules of the NASDAQ Options Market (''NOM''), unless otherwise noted.

[4] The options exchanges in the U.S. that have pilot programs similar to the Penny Pilot (together ''pilot programs'') are currently working on a proposal for permanent approval of the respective pilot programs.

quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on June 30, 2019.[5] The Exchange now proposes to extend the time period of the Penny Pilot through December 31, 2019 or the date of permanent approval, if earlier.

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the potential increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the proposed rule change, which extends the Penny Pilot for an additional six months through December 31, 2019 or the date of permanent approval, if earlier, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange.

Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

The Pilot is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program.[14] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2019–051 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–2019–051.* 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

[5] *See* Securities Exchange Act Release No. 84960 (December 26, 2018), 84 FR 843 (January 31, 2019) (SR–NASDAQ–2018–107).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] *See* Securities Exchange Release No. 61061 (November 24, 2009), 74 FR 62857) (December 1, 2009) (SR–NYSEARCA–2009–44).

[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).

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 submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number *SR–NASDAQ–2019–051* and should be submitted on or before July 16, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Vanessa A. Countryman,**

*Acting Secretary.*

[FR Doc. 2019–13406 Filed 6–24–19; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86149; File No. SR–GEMX–2019–07]**

## Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Rules To Extend a Pilot Program

June 19, 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 14, 2019 Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I 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 its rules to extend a pilot program to quote and to trade certain options classes in penny increments (''Penny Pilot Program'' or ''Penny Pilot'').

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqmrx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Under the Penny Pilot Program, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot Program is currently scheduled to expire on June 30, 2019.[3] The Exchange proposes to extend the Penny Pilot Program through December 31, 2019.[4] This filing does not propose any substantive changes to the Penny Pilot Program: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh any increase in quote traffic.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[5] Specifically, the proposed rule change is consistent with Section 6(b)(5) of the Act,[6] because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change, which extends the Penny Pilot Program for an additional six months, will enable public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[7] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Penny Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Penny Pilot Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

*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.

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[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 84955 (December 26, 2018), 84 FR 859 (January 31, 2019) (SR–GEMX–2018–44).

[4] *See* Supplementary Material .01 to Rule 710.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(8).

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) [12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program.[14] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–GEMX–2019–07 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–GEMX–2019–07. 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 submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–GEMX–2019–07 and should be submitted on or before July 16, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Vanessa A. Countryman,**

*Acting Secretary.*

[FR Doc. 2019–13408 Filed 6–24–19; 8:45 am]

**BILLING CODE 8011–01–P**

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] *See* Securities Exchange Release No. 61061 (November 24, 2009), 74 FR 62857) (December 1, 2009) (SR–NYSEARCA–2009–44).

[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] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86148; File No. SR–CBOE–2019–028]**

## Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 6.42 To Extend the Penny Pilot Program Through December 31, 2019

June 19, 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 10, 2019, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend Rule 6.42 by extending the Penny Pilot Program through December 31, 2019. The text of the proposed rule change is provided below.

(additions are *italicized;* deletions are [bracketed])

* * * * *

**Rules of Cboe Exchange, Inc.**

* * * * *

Rule 6.42. Minimum Increments for Bids and Offers

[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).

(a)–(b) No change.

. . . *Interpretations and Policies:*

.01–.03 No change.

.04 The Exchange may replace any option class participating in the Penny Pilot Program that has been delisted with the next most actively traded, multiply listed option class, based on national average daily volume in the preceding six calendar months, that is not yet included in the Pilot Program. Any replacement class would be added on the second trading day in the first month of each quarter. The Penny Pilot will expire on [June 30]*December 31,* 2019.

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Penny Pilot Program (the ''Pilot Program'') is scheduled to expire on June 30, 2019. The Exchange proposes to extend the Pilot Program until December 31, 2019. The Exchange believes that extending the Pilot Program will allow for further analysis of the Pilot Program and a determination of how the Pilot Program should be structured in the future. The Exchange is specifically authorized to act jointly with the other options exchanges participating in the Pilot Program in identifying any replacement class. The Exchange lastly represents that the Exchange has the necessary system capacity to continue to support operation of the Pilot Program.

The Exchange represents that the Exchange has the necessary system capacity to continue to support operation of the Pilot Program. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The 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.[5] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. In particular, the proposed rule change allows for an extension of the Pilot Program prior to its expiration on June 30, 2019 for the benefit of market participants. The Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options. The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of an existing program that operates on a pilot basis.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. In addition, the Exchange has been authorized to act jointly in extending the Pilot Program and believes the other exchanges will be filing similar extensions.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)[9] thereunder. 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 after the date of the filing, 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 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)[11] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *Id.*

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

consistent with the Commission's prior approval of the extension and expansion of the Pilot Program.[14] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2019–028 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2019–028. 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, on official business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2019–028 and should be submitted on or before July 16, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Vanessa A. Countryman,**

*Acting Secretary.*

[FR Doc. 2019–13409 Filed 6–24–19; 8:45 am]

**BILLING CODE 8011–01–P**

[14] *See* Securities Exchange Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca-2009–44).

[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] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86151; File No. SR–NYSE–2019–34]**

## Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Amend Exchange Rule 104 To Specify Designated Market Maker Requirements for Exchange Traded Products Listed on the Exchange

June 19, 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 7, 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, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend Rule 104 to specify Designated Market Maker (''DMM'') requirements for Exchange Traded Products (''ETPs'') listed on the Exchange pursuant to Rules 5P and 8P. 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 104 (Dealings and Responsibilities of DMMs) to specify DMM requirements for ETPs listed on the Exchange pursuant to Rules 5P and 8P.

Background

Currently, the Exchange trades securities, including ETPs, on its Pillar trading platform on an unlisted trading privileges (''UTP'') basis, subject to Pillar Platform Rules 1P–13P.[4] In the next phase of Pillar, the Exchange proposes to transition trading of Exchange-listed securities to the Pillar trading platform, which means that DMMs would be trading on Pillar in their assigned securities.[5] Once transitioned to Pillar, such securities

[4] ''UTP Security'' is defined as a security that is listed on a national securities exchange other than the Exchange and that trades on the Exchange pursuant to unlisted trading privileges. *See* Rule 1.1.

[5] The Exchange has announced that, subject to rule approvals, the Exchange will begin transitioning Exchange-listed securities to Pillar on August 5, 2019, available here: *https://www.nyse.com/publicdocs/nyse/markets/nyse/Revised_Pillar_Migration_Timeline.pdf.* The Exchange will publish by separate Trader Update a complete symbol migration schedule.

will also be subject to the Pillar Platform Rules 1P–13P.

Rules 5P (Securities Traded) and 8P (Trading of Certain Exchange Traded Products) provide for the listing of certain ETPs [6] on the Exchange that (1) meet the applicable requirements set forth in those rules, and (2) do not have any component NMS Stock [7] that is listed on the Exchange or is based on, or represents an interest in, an underlying index or reference asset that includes an NMS Stock listed on the Exchange. ETPs listed under Rules 5P and 8P are ''Tape A'' listings and would be traded pursuant to the rules applicable to NYSE-listed securities.

The Exchange does not currently list any ETPs and anticipates that it would not do so until Exchange-listed securities transition to Pillar. Once an ETP is listed, it will be assigned to a DMM pursuant to Rule 103B. The DMMs' role with respect to ETPs assigned to them will be subject to the same DMM rules governing all other listed securities, including Rules 36, 98, and 104. For example, DMMs will be responsible for facilitating the opening, reopening, and close of trading for assigned ETPs as required by Rule 104(a)(2) and (3). To facilitate DMM trading of Exchange-listed ETPs pursuant to Rules 5P and 8P, with this proposed change, the Exchange proposes to amend Rule 104 relating specified DMM requirements.

Current Rule 104

Rule 104 sets forth the obligations of Exchange DMMs. Under Rule 104(a), DMMs registered in one or more securities traded on the Exchange are required to engage in a course of dealings for their own account to assist in the maintenance of a fair and orderly market insofar as reasonably practicable. Rule 104(a) also enumerates the specific responsibilities and duties of a DMM, including: (1) Maintenance of a continuous two-sided quote, which mandates that each DMM maintain a bid or an offer at the National Best Bid (''NBB'') and National Best Offer (''NBO'') (together, the ''NBBO'' or ''inside'') at least 15% of the trading day for securities with a consolidated average daily volume of less than one million shares, and at least 10% for securities with a consolidated average daily volume equal to or greater than one million shares,[8] and (2) the facilitation of, among other things, openings, re-openings, and the close of trading for the DMM's assigned securities, all of which may include supplying liquidity as needed.[9]

Rule 104(f) imposes an affirmative obligation on DMMs to maintain, insofar as reasonably practicable, a fair and orderly market on the Exchange in assigned securities, including maintaining price continuity with reasonable depth and trading for the DMM's own account when lack of price continuity, lack of depth, or disparity between supply and demand exists or is reasonably to be anticipated. The Exchange supplies DMMs with suggested Depth Guidelines for each security in which a DMM is registered, and DMMs are expected to quote and trade with reference to the Depth Guidelines.[10]

Rule 104(g) provides that transactions on the Exchange by a DMM for the DMM's account must be effected in a reasonable and orderly manner in relation to the condition of the general market and the market in the particular stock. Rule 104(g) also describes certain transactions on the Exchange by a DMM for the DMM's account must be effected in a reasonable and orderly manner in relation to the condition of the general market and the market in the particular stock. In addition, if a DMM unit engages in an ''Aggressing Transaction,'' *i.e.,* a transaction that (i) is a purchase (sale) that reaches across the market to trade as the contra-side to the Exchange published offer (bid); and (ii) is priced above (below) the last-differently priced trade on the Exchange and above (below) the last differently-priced published offer (bid) on the Exchange, such DMM is subject to specified requirements to re-enter on the opposite side of the Aggressing Transaction. Rule 104(g) also prohibits DMM Aggressing Transactions in the last ten minutes of trading if the transaction that create a new high/low price for the security on the Exchange for the day at the time of the DMM's transaction, subject to certain exceptions.

Proposed Rule Change

To reflect the differences in how ETPs trade and the unique role of exchange market makers in the trading of ETPs, in order to facilitate DMM trading of Exchange-listed ETPs pursuant to Rules 5P and 8P, the Exchange proposes certain amendments to Rule 104.

Unlike operating company securities listed on the Exchange, the value of ETPs are derived from the underlying assets owned. The end-of-day net asset value (''NAV'') of an ETP is a daily calculation based off the most recent closing prices of the underlying assets and an accounting of the ETP's total cash position at the time of calculation. The NAV generally is calculated by taking the sum of fund assets, including any securities and cash, subtracting liabilities, and dividing by the number of outstanding shares. Additionally, ETPs are generally subject to a creation and redemption mechanism to ensure that the ETP's price does not fluctuate too far away from NAV, which mechanisms mitigate the potential for exchange trading to impact the price of an ETP.

Moreover, each business day, ETPs make publicly available a creation and redemption ''basket'' which may, for example, be in the form of a portfolio composition file (*i.e.,* a specific list of names and quantities of securities or other assets designed to track the performance of the portfolio as a whole). ETP shares are created when an Authorized Participant, typically a market maker or other large institutional investor, deposits the daily creation basket or cash with the issuer. In return for the creation basket or cash (or both), a ''creation unit'' is issued to the Authorized Participant that consists of a specified number of ETF shares.[11]

The principal, and perhaps most important, feature of ETPs is their reliance on an ''arbitrage function'' performed by market participants that influences the supply and demand of shares and, thus, trading prices relative to NAV. As noted above, new ETP shares can be created and existing shares redeemed based on investor demand; thus, ETP supply is generally open-ended. As the Commission has acknowledged, the arbitrage function helps to keep an ETP's price in line with the value of its underlying portfolio, *i.e.,*

[6] Rule 1.1P(k) defines ''Exchange Traded Product'' as a security that meets the definition of ''derivative securities product'' in Rule 19b–4(e) under the Act.

[7] NMS Stock is defined in Rule 600 of Regulation NMS, 17 CFR 242.600(b)(47).

[8] *See* Rule 104(a)(1)(A).

[9] *See* Rule 104(a)(2)–(3). Rule 104(e) further provides that DMM units must provide contra-side liquidity as needed for the execution of odd-lot quantities eligible to be executed as part of the opening, reopening, and closing transactions but that remain unpaired after the DMM has paired all other eligible round lot sized interest.

[10] *See* Rule 104(f)(3).

[11] For example, assume a given ETP is designed to track the performance of a specific index. An Authorized Participant will generally purchase certain of the constituent securities of that index, then deliver those shares to the issuer. In exchange, the issuer gives the Authorized Participant a block of equally valued ETP shares, on a one-for-one fair value basis. This process also works in reverse. A redemption is achieved when the Authorized Participant accumulates a sufficient number of shares to constitute a creation unit and then exchanges these shares with the issuer, thereby decreasing the supply of ETP shares in the marketplace.

it minimizes deviation from NAV.[12] Generally, the higher the liquidity and trading volume of an ETP, the more likely the ETP's price will not deviate from the value of its underlying portfolio. Market makers registered in ETPs play a key role in this arbitrage function and DMMs, along with other market participants, would perform this role for ETPs listed on the Exchange. In short, the Exchange believes that the arbitrage mechanism is generally an effective and efficient means of ensuring that intraday pricing in ETPs closely tracks the value of the underlying portfolio or reference assets.

To reflect the role of market makers—including DMMs—in the trading of ETPs, the Exchange proposes to amend Rule 104 in several respects. First, the Exchange proposes to exclude ETPs from the definition of ''Aggressing Transactions'' in Rule 104(g) (Transactions by DMMs) and, by extension, from the prohibition on Aggressing Transactions in the last ten minutes prior to the scheduled close of trading that would result in a new high (low) price for a security on the Exchange for the day at the time of the DMM's transaction.

The Exchange believes that because of the unique characteristics of ETPs—in particular, that ETPs trade at intra-day market prices rather than at NAV and the existence of arbitrage pricing mechanisms that are designed to help ensure that secondary market prices of ETP shares do not vary substantially from the NAV—the DMM obligations set forth in Rule 104(g) not only are not necessary, but also could impede the ability of a DMM to effectively make markets in ETPs. For example, a market maker engaging in the arbitrage function may need to update the quote for an ETP to bring the price of the security in line with the underlying assets. If updating the quote consistent with that arbitrage function were to require the DMM to first to engage in an Aggressing Transaction (*i.e.,* to trade with the existing BBO in order to post a new quote), the Exchange believes that the current re-entry obligations for Aggressing Transactions would defeat the purpose of the DMM engaging in such Aggressing Transaction to update the quote in the first place. More specifically, the re-entry obligation could be inconsistent with the new quote that the DMM is seeking to post as part of the arbitrage function. Indeed, the Exchange believes that without the proposed changes, DMMs assigned to ETPs would be at a competitive disadvantage vis-à-vis registered market makers in the same ETP on competing exchanges as well as other market participants on the NYSE and would be impeded in their ability to effectively make competitive markets in their assigned ETP securities.

For similar reasons, the Exchange does not believe that DMMs should be prohibited from engaging in Aggressing Transactions in the last ten minutes of trading. While DMMs will be responsible for facilitating the closing transaction pursuant to Rule 104(a)(3), given the nature of ETPs and how they are priced, the Exchange does not believe that the DMM will have any unique pricing power either leading into the close or when facilitating the close. In the ten minutes leading into the close, to perform its role as market maker, the DMM will continue to price such securities consistent with the arbitrage functions described above. And for the close, because an ETP should be priced at or very close the ETP's NAV, the Exchange believes that this pricing pressure will mitigate the potential for a DMM to influence the price of the ETP. In both cases, if a DMM's quotes become inconsistent with the value of the underlying basket, other market participants can profit by employing the arbitrage function and re-establishing consistency with the underlying basket similar to intraday trading of ETPs.

To maintain the balance between DMM benefits and obligations under Rule 104, the Exchange proposes to amend Rule 104 to require heightened DMM quoting obligations for Exchange-listed ETPs. As proposed, for listed ETPs, DMMs would be required to maintain a bid or offer at the NBB and NBO at least 25% of the trading day. Time at the inside for ETPs would be calculated in the same way as other securities in which DMM units are registered as the average of the percentage of time the DMM unit has a bid or offer at the inside. In other words, this would be a portfolio-based quoting requirement. Orders entered by the DMM in ETPs that are not displayed would not be included in the inside quote calculation as is also currently the case for other securities in which DMM units are registered. Reserve or other non-displayed orders entered by the DMM in their assigned ETP would not be included in the inside quote calculations.

To effectuate this change, Rule 104(a)(1)(A) would be amended as follows:

- The phrase ''for securities in which the DMM unit is registered'' would be added following the first sentence in Rule 104(a)(1)(A) and the comma following that initial sentence would be removed;
- New subsections (i), (ii) and (iii) would be created;
- The phrase ''that are not ETPs'' would be added following ''at least 15% of the trading day for securities'' in new subsection (i) and ''in which the DMM unit is registered'' would be deleted;
- The phrase ''of the trading day''[13] would added after ''at least 10%'' and ''that are not ETPs'' would be added after ''for securities'' in new subsection (ii). The phrase ''in which the DMM unit is registered'' would be deleted since it would appear in the first sentence of the amended rule;
- New subdivision (iii) providing that DMM units must maintain a bid or an offer at the inside ''at least 25% of the trading day for ETPs'' would be added; and
- The phrase ''respective percentage'' would replace ''15% and 10%'' in the next to last sentence of Rule 104(a)(1)(A) and ''non-displayed'' would replace ''hidden'' in the last sentence of the rule.

The Exchange also proposes non-substantive amendments to replace the terms ''stock'' and ''stocks'' in Rule 104(f)(2) (Function of DMMs) with the terms ''security'' and ''securities,'' respectively. The Exchange would also add a new subsection (5) to Rule 104(f) providing that, for those ETPs in which they are registered, DMM units will be responsible for the affirmative obligation of maintaining a fair and orderly market, including maintaining price continuity with reasonable depth for their registered ETPs in accordance with Depth Guidelines published by the Exchange. To provide the Exchange time to collect trading data adequate to calculate appropriate Depth Guidelines for listed ETPs, the Exchange proposes that these provisions would not be operative until 18 weeks after the approval of the proposed rule change by the Commission.[14]

[12] *See* Securities Exchange Act Release No. 75165, 80 FR 34729, 34733 (June 17, 2015) (S7–11–15) (arbitrage ''generally helps to prevent the market price of ETP Securities from diverging significantly from the value of the ETP's underlying or reference assets''). *See also generally id.,* 80 FR at 34739 (''In the Commission's experience, the deviation between the daily closing price of ETP Securities and their NAV, averaged across broad categories of ETP investment strategies and over time periods of several months, has been relatively small[,]'' although it had been ''somewhat higher'' in the case of ETPs based on international indices.).

[13] This is a non-substantive conforming change that would mirror the current rule text for the 15% requirement.

[14] *See, e.g.,* Securities Exchange Act Release Nos. 62479 (July 9, 2010), 75 FR 41264, 41265 (July 15, 2010) (SR–NYSEAmex–2010–31) (providing for a delayed implementation of Depth Guidelines to enable the collection of trading data adequate to

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[15] in general, and furthers the objectives of Sections 6(b)(5) of the Act,[16] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that proposed requirements for DMM trading of ETPs would remove impediments to and perfect the mechanism of a free and open market and a national market system by facilitating market making by DMMs in listed ETPs and maintaining the Exchange's current structure to trade listed securities. The Exchange believes that the proposed exclusion of listed ETPs from the requirements of Rule 104(g) would not be inconsistent with the public interest and the protection of investors because the unique characteristics of ETPs, including that ETPs trade at intra-day market prices rather than end-of-day NAV and are constrained by arbitrage pricing mechanisms that are designed to ensure that secondary market prices of ETP shares do not vary substantially from the NAV, render those obligations unnecessary or potentially even harmful. As discussed above, the Exchange also believes the DMM obligations set forth in Rule 104(g) could impede the ability of a DMM to effectively make markets in ETPs. For similar reasons, excluding listed ETPs from the prohibition on Aggressing Transactions in the last ten minutes of trading would not be inconsistent with the public interest and the protection of investors because, given the nature of ETPs and how they are priced, DMMs will not have any unique pricing power either leading into the close or when facilitating the close and these restrictions could end up impeding the alignment of ETP price with the underlying basket. Rather, in the ten minutes leading into the close, DMM will continue to price such securities consistent with the arbitrage functions described above and, because an ETP should be priced at NAV, the Exchange believes that this pricing pressure will reduce the potential for a DMM to potentially manipulate the price of ETPs going into the close.

The Exchange believes that the proposed heightened quoting obligations for DMMs in listed ETPs requiring maintenance of a bid or offer at the inside of at least 25% of the trading day would maintain the balance of benefits and obligations under Rule 104 because exclusion of listed ETPs from the requirements of Rule 104(g) would be offset by the heightened DMM quoting obligations for listed ETPs. DMMs would also be required to facilitate the opening, reopening, and closing of listed ETPs assigned to them, as required by Rule 104(a)(2) and (3), which is an obligation unique to the Exchange. As noted, listed ETPs would also be subject to the requirement that DMM transactions be effected in a reasonable and orderly manner in relation to the condition of the general market and the market in the particular stock. These safeguards are designed to ensure that DMM transactions in listed ETPs bear a reasonable relationship to overall market conditions and that DMMs cannot destabilize, inappropriately influence or manipulate a security going into the close. For the same reasons, the proposed prohibition would not alter or disrupt the balance between DMM benefits and obligations of being an Exchange DMM.

The proposed heightened quoting obligation for listed ETPs assigned to a DMM would also encourage additional stable displayed liquidity on the Exchange in listed securities, thereby promoting price discovery and transparency. The Exchange further believes that by establishing distinct requirements for DMMs, the proposal is also designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

The Exchange believes that the proposal would not be inconsistent with the public interest and the protection of investors. As noted, the proposal would subject DMMs to the Exchange's current structure for trading listed securities and the responsibilities and duties of DMMs set forth in Rule 104, including facilitating openings, reopenings, and closings and adding a heightened quoting obligation at the inside. In addition, the proposed rule would subject listed ETPs to the requirement that all DMM transactions be effected in a reasonable and orderly manner in relation to the condition of the general market and the market in the particular stock. Although the implementation of Depth Guidelines will be delayed, DMM units will still have the obligation once ETPs are listed and begin trading to maintain a fair and orderly market. The Exchange believes that the delayed implementation of Depth Guidelines will allow it to develop guidelines that are appropriately tailored for how ETPs will trade on the Exchange, which should improve the DMM units' ability to maintain a fair and orderly market and also the broader market for those securities here on the Exchange and on other markets.[17]

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[18] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed change would promote competition by facilitating the listing and trading of ETPs on the Exchange. The Exchange believes that without this proposed change, DMMs assigned to ETPs would be at a competitive disadvantage vis-à-vis registered market makers in the same ETP on competing exchanges or other market participants on the NYSE because if they were required to comply with requirements relating to Aggressing Transactions in Rule 104(g), they would be impeded in their ability to effectively make markets in their assigned ETP securities. The Exchange believes that the proposed heightened DMM quoting obligations in listed ETPs would promote competition by promoting the display of liquidity on an exchange, which would benefit all market participants. These proposed rule changes would facilitate the trading of Exchange-listed ETPs by DMMs on Pillar, which would enable the Exchange to further compete with

calculate the guidelines in connection with the Floor-based DMM trading of Nasdaq securities on a UTP basis). Such an approach is necessary so that appropriate Depth Guidelines may be calculated based on actual trading data on the Exchange. Accordingly, following implementation and roll-out of the pilot program, the Exchange proposes to collect 60 trading days of trade data before implementing Depth Guidelines for trading ETPs securities on the Exchange within 30 calendar days of the collection of the trade data. *See generally id.,* 75 FR at 41267 & n. 19.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *See* note 13, *supra.*

[18] 15 U.S.C. 78f(b)(8).

unaffiliated exchange competitors that also trade ETPs.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2019–34 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–2019–34. 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–2019–34 and should be submitted on or before July 16, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

**Vanessa A. Countryman,**

*Acting Secretary.*

[FR Doc. 2019–13407 Filed 6–24–19; 8:45 am]

**BILLING CODE 8011–01–P**

[19] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86155; File No. SR–CboeBZX–2019–057]**

## Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To List and Trade Shares of the American Century Focused Dynamic Growth ETF and American Century Focused Large Cap Value ETF Under Currently Proposed Rule 14.11(k)

June 19, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 6, 2019, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes a rule change to list and trade shares of the following under currently proposed Rule 14.11(k): American Century Focused Dynamic Growth ETF and American Century Focused Large Cap Value ETF (each a ''Fund'' and, collectively, the ''Funds'').

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 has submitted a proposal to add new Rule 14.11(k) for the purpose of permitting the listing and trading of Managed Portfolio Shares, which are securities issued by an actively managed open-end investment management company, which has not yet been published by the Commission.[3]

[3] As proposed, the term ''Managed Portfolio Share'' means a security that (a) represents an interest in a registered investment company (''Investment Company'') organized as an open-end management investment company, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified aggregate minimum number of shares equal to a Creation Unit, or multiples thereof, in return for a designated portfolio of securities (and/or an amount of cash) with a value equal to the next determined net asset value which the AP Representative (defined below) will provide through a confidential account; and (c) when aggregated in the same specified aggregate number of shares equal to a Redemption Unit, or multiples thereof, may be redeemed at the request of an Authorized Participant (as defined in the Investment Company's Form N–1A filed with the SEC), which Authorized Participant will be paid through a confidential account established for its benefit a portfolio of securities and/or cash with a

Proposed Rule 14.11(k)(2)(A) would require the Exchange to file separate proposals under Section 19(b) of the Act before listing and trading any series of Managed Portfolio Shares on the Exchange. As such, the Exchange is submitting this proposal in order to list and trade shares of the American Century Focused Dynamic Growth ETF and the American Century Focused Large Cap Value ETF under proposed Rule 14.11(k).

Description of the Funds and the Trust

The shares of each Fund will be issued by American Century ETF Trust (the ''Trust''), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.[4] The investment adviser to the Trust will be American Century Investment Management, Inc. (the ''Adviser''). Foreside Fund Services, LLC (the ''Distributor'') will serve as the distributor of each of the Fund's shares. All statements and representations made in this filing regarding the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of VIIV, reference assets, and intraday indicative values, and the applicability of Exchange rules shall constitute continued listing requirements for listing the shares on the Exchange.

Proposed Rule 14.11(k)(2)(E) provides that, if the investment adviser to the investment company issuing Managed Portfolio Shares is registered as a broker-dealer or is affiliated with a broker-dealer, such investment adviser will erect and maintain a ''fire wall'' between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition and/or changes to such investment company portfolio.[5] In addition, proposed Rule 14.11(k)(2)(E) further requires personnel who make decisions on the Investment Company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company portfolio. Proposed Rule 14.11(k)(2)(E) is similar to Rule 14.11(i)(7), related to Managed Fund Shares, and Rule 14.11(c)(5)(A)(i), related to Index Fund Shares, except that proposed Rule 14.11(k)(2)(E) relates to the establishment of a ''fire wall'' between the investment adviser and the broker-dealer as applicable to an Investment Company's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not registered as a broker-dealer, but is affiliated with a broker-dealer and has implemented and will maintain a ''fire wall'' with respect to such broker-dealer regarding access to information concerning the composition and/or changes to a Fund's portfolio.

In the event (a) the Adviser becomes registered as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

The portfolio for each Fund will consist primarily of U.S. exchange-listed equity securities and shares issued by other U.S. exchange-listed ETFs.[6] All exchange-listed equity securities in which the Funds will invest will be listed and traded on U.S. national securities exchanges.

Description of the Funds

American Century Focused Dynamic Growth ETF

The Fund seeks long-term capital growth. Under Normal Market Conditions,[7] the Fund intends to invest primarily in U.S. exchange-listed equity securities. The portfolio managers look for stocks of companies they believe will increase in value over time. In implementing this strategy, the portfolio managers make their investment decisions based primarily on their analysis of individual companies, rather than on broad economic forecasts. Management of the Fund is based on the belief that, over the long term, stock price movements follow growth in earnings, revenues and/or cash flow. The portfolio managers use a variety of analytical research tools and techniques to identify the stocks of companies that meet their investment criteria.

In addition to investing primarily in U.S. exchange-listed equity securities, the Fund may also invest in exchange-traded funds, exchange-listed ADRs, U.S. exchange-listed equity futures contracts, and U.S. exchange-listed

value equal to the next determined net asset value. *See* SR–CboeBZX–2019–047 (the ''Proposal'').

[4] The Trust is registered under the 1940 Act. On June 18, 2018, the Trust filed a registration statement on Form N–1A relating to the Funds (File No. 811–23305) (the ''Registration Statement''). The Exchange notes that the names of the Funds have been changed since the Registration Statement was filed and that such names will be updated in a subsequent filing. The Shares will not be listed on the Exchange until an order (''Exemptive Order'') under the 1940 Act has been issued by the Commission with respect to the application for exemptive relief (the ''Exemptive Application'') (File No. 812–15035). Investments made by the Funds will comply with the conditions set forth in the Exemptive Order. The description of the operation of the Trust and the Funds herein is based, in part, on the Registration Statement. The Exchange notes that the Exemptive Application is very similar to the application for exemptive relieve submitted by Precidian ETFs Trust, et al. for which an order granting the requested relief was issued on May 20, 2019 (File No. 812–14405) (the ''Order''). The Order specifically notes that ''granting the requested exemptions is appropriate in and consistent with the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. It is further found that the terms of the proposed transactions, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transactions are consistent with the policy of each registered investment company concerned and with the general purposes of the Act.'' *See* Investment Company Act Release Nos. 33440 and 33477.

[5] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel will be subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violations, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[6] For purposes of describing the holdings of the Funds, ETFs include Portfolio Depository Receipts (as described in Rule 14.11(b)); Index Fund Shares (as described in Rule 14.11(c)); and Managed Fund Shares (as described in Rule 14.11(i)). The ETFs in which a Fund will invest all will be listed and traded on U.S. national securities exchanges. While the Funds may invest in inverse ETFs, the Funds will not invest in leveraged (*e.g.,* 2X, –2X, 3X or –3X) ETFs.

[7] The term ''Normal Market Conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information or system failures; or force majeure type events such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

equity index futures contracts. The Fund may also hold cash and Cash Equivalents [8] without limitation.

The Exchange notes that the Fund's holdings will meet the generic listing standards applicable to series of Managed Fund Shares under Rule 14.11(i)(4)(C). While such standards do not apply directly to series of Managed Portfolio Shares, the Exchange believes that the overarching policy issues related to liquidity, market cap, diversity, and concentration of portfolio holdings that Rule 14.11(i)(4)(C) is intended to address are equally applicable to series of Managed Portfolio Shares.

American Century Focused Large Cap Value ETF

The Fund seeks long-term capital growth. Under Normal Market Conditions, the Fund intends to invest primarily in U.S. exchange-listed equity securities. The portfolio managers look for companies whose stock price may not reflect the company's value. The managers attempt to purchase the stocks of these undervalued companies and hold each stock until the price has increased to, or is higher than, a level the managers believe more accurately reflects the fair value of the company. The portfolio managers may sell stocks from the fund's portfolio if they believe a stock no longer meets their valuation criteria, a stock's risk parameters outweigh its return opportunity, more attractive alternatives are identified or specific events alter a stock's prospects.

In addition to investing primarily in U.S. exchange-listed equity securities, the Fund may also invest in exchange-traded funds, exchange-listed ADRs, U.S. exchange-listed equity futures contracts, and U.S. exchange-listed equity index futures contracts. The Fund may also hold cash and Cash Equivalents without limitation.

The Exchange notes that the Fund's holdings will meet the generic listing standards applicable to series of Managed Fund Shares under Rule 14.11(i)(4)(C). While such standards do not apply directly to series of Managed Portfolio Shares, the Exchange believes that the overarching policy issues related to liquidity, market cap, diversity, and concentration of portfolio holdings that Rule 14.11(i)(4)(C) is intended to address are equally applicable to series of Managed Portfolio Shares.

Investment Restrictions

Each Fund may hold up to an aggregate amount of 15% of its total assets in illiquid assets,[9] consistent with Commission guidance. Each Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[10] In any event, the Funds will not purchase any securities that are illiquid investments at the time of purchase.

According to the Registration Statement, each Fund will seek to qualify for treatment as a Regulated Investment Company (''RIC'') under the Internal Revenue Code.[11]

The shares of each Fund will conform to the initial and continued listing criteria under proposed Rule 14.11(k). The Funds will not invest in forwards or swaps.

Each Fund's investments will be consistent with its investment objective and will not be used to enhance leverage. While a Fund may invest in inverse ETFs, a Fund will not invest in leveraged (*e.g.,* 2X, –2X, 3X or –3X) ETFs.

Creations and Redemptions of Shares

Creations and redemptions of the shares will occur as described in the Proposal. More specifically, in connection with the creation and redemption of Creation Units and Redemption Units, the delivery or receipt of any portfolio securities in-kind will be required to be effected through a separate confidential brokerage account (a ''Confidential Account''). Authorized Participants (as defined in the Funds' registration statements, ''AP'') will sign an agreement with an agent (an ''AP Representative'' [12]) establishing the Confidential Account for the benefit of the AP. AP Representatives will be broker-dealers. An AP must be a Depository Trust Company (''DTC'') Participant that has executed a ''Participant Agreement'' with the Distributor with respect to the creation and redemption of Creation Units and Redemption Units and formed a Confidential Account for its benefit in accordance with the terms of the Participant Agreement. For purposes of creations or redemptions, all transactions will be effected through the respective AP's Confidential Account, for the benefit of the AP without disclosing the identity of such securities to the AP.

Each AP Representative will be given, before the commencement of trading each Business Day (defined below), the Creation Basket (as described below) for that day. This information will permit an AP that has established a Confidential Account with an AP Representative, to instruct the AP Representative to buy and sell positions in the portfolio securities to permit creation and redemption of Creation Units and Redemption Units. Shares of each Fund will be issued in Creation Units of 5,000 or more shares. The Funds will offer and redeem Creation

[8] For purposes of this filing and consistent with Rule 14.11(i)(4)(C)(iii) related to Managed Fund Shares, Cash Equivalents are short-term instruments with maturities of less than three months, which includes only the following: (i) U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

[9] In reaching liquidity decisions, the Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers and the mechanics of transfer).

[10] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. See Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. See also, Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. See Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933). The Commission recently codified this long standing position in Rule 22e–4. See Investment Company Act Release No. 32315 (October 13, 2016), 81 FR 82142 (November 18, 2016) (adopting requirements for investment company liquidity risk management programs).

[11] 26 U.S.C. 851.

[12] Each AP shall enter into its own separate Confidential Account agreement (''Confidential Account Agreement'') with an AP Representative.

Units and Redemption Units on a continuous basis at the NAV per share next determined after receipt of an order in proper form. The NAV per share of each Fund will be determined as of the close of regular trading on the Exchange on each day that the Exchange is open (a ''Business Day''). The Funds will sell and redeem Creation Units and Redemption Units only on Business Days. The Adviser anticipates that the initial price of a share will range from $20 to $60, and that the price of a Creation Unit will be at least $100,000.

To keep costs low and permit each Fund to be as fully invested as possible, shares will be purchased and redeemed in Creation Units and Redemption Units and generally on an in-kind basis. Accordingly, except where the purchase or redemption will include cash under the circumstances described in the Registration Statement, APs will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and APs redeeming their shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'') through the AP Representative in their Confidential Account.[13] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, and these instruments may be referred to, in the case of either a purchase or a redemption, as the ''Creation Basket.'' [14]

Placement of Purchase Orders

Each Fund will issue shares through the Distributor on a continuous basis at NAV. The Exchange represents that the issuance of shares will operate in a manner similar to that of other ETFs. Each Fund will issue shares only at the NAV per share next determined after an order in proper form is received.

In the case of a creation, the AP would enter an irrevocable creation order with the Fund and then direct the AP Representative to purchase the necessary basket of portfolio securities. The AP Representative would then purchase the necessary securities in the Confidential Account. In purchasing the necessary securities, the AP Representative will use methods, such as breaking the transaction into multiple transactions and transacting in multiple marketplaces, to avoid revealing the composition of the Creation Basket. Once the necessary basket of securities has been acquired, the purchased securities held in the Confidential Account would be contributed in-kind to the Fund.

The Distributor will furnish acknowledgements to those placing such orders that the orders have been accepted, but the Distributor may reject any order which is not submitted in proper form, as described in a Fund's prospectus or Statement of Additional Information (''SAI''). The NAV of each Fund is expected to be determined once each Business Day at a time determined by the Trust's Board of Trustees (''Board''), currently anticipated to be as of the close of the regular trading session on the Exchange (ordinarily 4:00 p.m. E.T.) (the ''Valuation Time''). Each Fund will establish a cut-off time (''Order Cut-Off Time'') for purchase orders in proper form. To initiate a purchase of shares, an AP must submit to the Distributor an irrevocable order to purchase such shares after the most recent prior Valuation Time. All orders to purchase Creation Units must be received by the Distributor no later than the Order Cut-Off Time in each case on the date such order is placed (''Transmittal Date'') for the purchaser to receive the NAV per share determined on the Transmittal Date.

Purchases of shares will be settled in-kind and/or cash for an amount equal to the applicable NAV per share purchased plus applicable ''Transaction Fees,'' as discussed below.

Authorized Participant Redemption

The shares may be redeemed to a Fund in Redemption Unit size or multiples thereof as described below. Redemption orders of Redemption Units must be placed by an AP (''AP Redemption Order''). Each Fund will establish an Order Cut-Off Time for redemption orders of Redemption Units in proper form. Redemption Units of the Fund will be redeemable at their NAV per share next determined after receipt of a request for redemption by the Trust in the manner specified below before the Order Cut-Off Time. To initiate an AP Redemption Order, an AP must submit to the Distributor an irrevocable order to redeem such Redemption Unit after the most recent prior Valuation Time, but not later than the Order Cut-Off Time.

In the case of a redemption, the AP would enter into an irrevocable redemption order, and then immediately instruct the AP Representative to sell the underlying basket of securities that it will receive in the redemption. As with the purchase of securities, the AP Representative will use methods, such as breaking the transaction into multiple transactions and transacting in multiple marketplaces, to avoid revealing the composition of the Creation Basket.

Consistent with the provisions of Section 22(e) of the 1940 Act and Rule 22e–2 thereunder, the right to redeem will not be suspended, nor payment upon redemption delayed, except for: (1) Any period during which the Exchange is closed other than customary weekend and holiday closings, (2) any period during which trading on the Exchange is restricted, (3) any period during which an emergency exists as a result of which disposal by a Fund of securities owned by it is not reasonably practicable or it is not reasonably practicable for a Fund to determine its NAV, and (4) for such other periods as the Commission may by order permit for the protection of shareholders.

Redemptions will occur primarily in-kind, although redemption payments may also be made partly or wholly in cash.[15] The Participant Agreement signed by each AP will require establishment of a Confidential Account to receive distributions of securities in-kind upon redemption. Each AP will be required to open a Confidential Account with an AP Representative in order to facilitate orderly processing of redemptions. While a Fund will generally distribute securities in-kind, the Adviser may determine from time to time that it is not in a Fund's best interests to distribute securities in-kind, but rather to sell securities and/or distribute cash. For example, the Adviser may distribute cash to facilitate orderly portfolio management in connection with rebalancing or transitioning a portfolio in line with its investment objective, or if there is substantially more creation than redemption activity during the period immediately preceding a redemption request, or as necessary or appropriate in accordance with applicable laws and regulations.

The Redemption Instruments will consist of the same securities for all APs on any given day subject to the

[13] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the 1933 Act.

[14] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis, whether for a given day or a given order, the key consideration will be the benefit that would accrue to a Fund and its investors. To the extent a fund allows creations or redemptions to be conducted in cash, such transactions will be effected in the same manner for all APs.

[15] The value of any positions not susceptible to in-kind settlement may be paid in cash.

Adviser's ability to make minor adjustments to address odd lots, fractional shares, tradeable sizes or other situations.

Net Asset Value

The NAV per share of a Fund will be computed by dividing the value of the net assets of a Fund (*i.e.,* the value of its total assets less total liabilities) by the total number of shares of a Fund outstanding, rounded to the nearest cent. Expenses and fees, including, without limitation, the management, administration and distribution fees, will be accrued daily and taken into account for purposes of determining NAV. Interest and investment income on the Trust's assets accrue daily and will be included in the Fund's total assets. The NAV per share for a Fund will be calculated by a Fund's administrator (''Administrator'') and determined as of the close of the regular trading session on the Exchange (ordinarily 4:00 p.m., E.T.) on each day that the Exchange is open.

Shares of U.S. exchange-listed equity securities, exchange-traded funds, exchange-listed ADRs, and U.S. exchange-listed futures will be valued at market value, which will generally be determined using the last reported official closing or last trading price on the exchange or market on which the securities are primarily traded at the time of valuation. Cash Equivalents will generally be valued on the basis of independent pricing services or quotes obtained from brokers and dealers or price quotations or other equivalent indications of value provided by a third-party pricing service.

Availability of Information

The Funds' website (*www.americancenturyetfs.com*), which will be publicly available prior to the listing and trading of shares, will include a form of the prospectus for each Fund that may be downloaded. The Funds' website will include additional quantitative information updated on a daily basis, including, for each Fund, (1) the prior Business Day's NAV, market closing price or mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[16] and a calculation of the premium and discount of the market closing price or Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. The website and information will be publicly available at no charge.

The Trust's SAI and each Fund's shareholder reports will be available free upon request from the Trust. These documents and forms may be viewed on-screen or downloaded from the Commission's website at *www.sec.gov.*

Information regarding market price and trading volume of the shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Quotation and last sale information for the shares will be available via the Consolidated Tape Association (''CTA'') high-speed line. In addition, the VIIV, as defined in proposed Rule 14.11(k)(3)(B) and as described further below, will be widely disseminated by one or more major market data vendors in one-second intervals during Regular Trading Hours.

Dissemination of the VIIV

According to the Exemptive Application, the pricing verification agent, on behalf of each Fund, will utilize two separate calculation engines to calculate intra-day indicative values (''Calculation Engines''), generally based on the mid-point between the current national best bid and offer disseminated by the Consolidated Quotation System (''CQS'') and Unlisted Trading Privileges (''UTP'') Plan Securities Information Processor,[17] to provide the estimated real-time value on a per Share basis every second during the Exchange's Regular Trading Hours.[18] The specific methodology for calculating and disclosing the VIIV will be disclosed on each Fund's website. The VIIV should not be viewed as a ''real-time'' update of NAV because the VIIV may not be calculated in the same manner as NAV, which is computed once per day. The VIIV for each Fund will be disseminated by one or more major market data vendors in one-second intervals during Regular Trading Hours. For purposes of the VIIV, securities held by a Fund will be valued throughout the day based on the mid-point between the disseminated current national best bid and offer. If the Adviser determines that a portfolio security does not have a readily available market quotation, that fact, along with the identity and weighting of that security in a Fund's VIIV calculation, will be publicly disclosed on each Fund's website.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the shares of the Funds. The Exchange will halt trading in the shares under the conditions specified in BZX Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the shares inadvisable, including whether unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the shares also will be subject to proposed Rule 14.11(k)(4)(B)(iii) in the Proposal, which sets forth circumstances under which shares of the Funds will be halted.

Trading Rules

The Exchange deems the shares to be equity securities, thus rendering trading in the shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the Exchange only during Regular Trading Hours as provided in proposed Rule 14.11(k)(2)(B). As provided in BZX Rule 11.11(a), the minimum price variation for quoting and entry of orders in securities traded on the Exchange is $0.01, with the exception of securities that are priced less than $1.00, for which the minimum price variation for order entry is $0.0001.

The shares will conform to the initial and continued listing criteria under Rule 14.11(k). The Exchange represents that, for initial and/or continued listing, each Fund will be in compliance with Rule 10A–3 under the Act.[19] A minimum of 100,000 shares of each Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the shares of each Fund that the NAV per

[16] The Bid/Ask Price of a Fund will be determined using the mid-point between the current NBB and NBO as of the time of calculation of a Fund's NAV. The records relating to Bid/Ask Prices will be retained by each Fund and its service providers.

[17] According to the Exemptive Application, all Commission-registered exchanges and market centers send their trades and quotes to a central consolidator where the Consolidated Tape System (CTS) and CQS data streams are produced and distributed worldwide. See *https://www.ctaplan.com/index.* Although there is only one source of market quotations, each Calculation Engine will receive the data directly and calculate an indicative value separately and independently from each other Calculation Engine.

[18] The Adviser represents that the dissemination of VIIV at one second intervals strikes a balance of providing all investors with usable information at a rate that can be processed by retail investors, does not provide so much information so as to allow market participants to accurately determine the constituents, and their weightings, of the portfolio, can be accurately calculated and disseminated, and still provides professional traders with per second data.

[19] *See* 17 CFR 240.10A–3.

share of each Fund will be calculated daily and will be made available to all market participants at the same time.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Portfolio Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by a Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the shares, underlying equity securities and U.S. exchange-listed futures with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading such securities from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the shares, underlying stocks and U.S. exchange-listed futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[20]

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular (''Circular'') of the special characteristics and risks associated with trading the shares. Specifically, the Circular will discuss the following: (1) The procedures for purchases and redemptions of shares; (2) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the shares to customers; (3) how information regarding the VIIV is disseminated; (4) the requirement that members deliver a prospectus to investors purchasing newly issued shares prior to or concurrently with the confirmation of a transaction; and (5) trading information.

In addition, the Circular will reference that the Funds are subject to various fees and expenses described in the Registration Statement. The Circular will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Circular will also disclose that the NAV for the shares will be calculated after 4:00 p.m., E.T. each trading day.

2. Statutory Basis

The Exchange believes that the Proposal is consistent with Section 6(b) of the Act [21] in general and Section 6(b)(5) of the Act [22] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that, to the extent that the Proposal and, thus proposed Rule 14.11(k) is approved by the Commission, this proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Funds would meet each of the rules relating to listing and trading of Managed Portfolio Shares and, to the extent that a Fund is not in compliance with such rules, the Exchange would either prevent the Fund from listing and trading if it hadn't started trading on the Exchange or would commence delisting procedures under Exchange Rule 14.12. More specifically, the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 14.12 for, a series of Managed Portfolio Shares under any of the following circumstances: (a) If, following the initial twelve-month period after commencement of trading on the Exchange of a series of Managed Portfolio Shares, there are fewer than 50 beneficial holders of the series of Managed Portfolio Shares; (b) if the value of the VIIV is no longer calculated or available to all market participants at the same time; (c) if the holdings of a series of Managed Portfolio Shares are not made available on a quarterly basis as required under the 1940 Act or are not made available to all market participants at the same time; (d) if the Investment Company issuing the Managed Portfolio Shares has failed to file any filings required by the Commission or if the Exchange is aware that the Investment Company is not in compliance with the conditions of any exemptive order or no-action relief granted by the Commission to the Investment Company with respect to the series of Managed Portfolio Shares; (e) if any of the continued listing requirements set forth in Rule 14.11(k) are not continuously maintained; (f) if any of the applicable Continued Listing Representations for the issue of Managed Fund Shares are not continuously met; or (g) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

The Adviser is not registered as a broker-dealer, but is affiliated with a broker-dealer and has implemented and will maintain a ''fire wall'' with respect to such broker-dealer regarding access to information concerning the composition and/or changes to a Fund's portfolio.

In the event (a) the Adviser becomes registered as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

With respect to the proposed listing and trading of shares of the Funds, the Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Rule 14.11(k). Price information for the U.S. exchange-listed equity securities held by the Funds will be available through major market data vendors or securities exchanges listing and trading such securities. The listing and trading of such securities is subject to rules of the exchanges on which they are listed and traded, as approved by the Commission. The Funds will primarily hold U.S.-listed equity securities. All exchange-listed equity securities in

[20] For a list of the current members of ISG, *see www.isgportal.org.*

[21] 15 U.S.C. 78f.

[22] 15 U.S.C. 78f(b)(5).

which the Funds will invest will be listed and traded on U.S. national securities exchanges. A Fund's investments will be consistent with its respective investment objective and will not be used to enhance leverage. The Funds will not invest in non-U.S. exchange-listed securities. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the shares, underlying stocks and U.S. exchange-listed futures with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading such securities from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the shares, underlying stocks, and U.S. exchange-listed futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. An AP Representative will provide information related to creations and redemption of Creation Units and Redemption Units to FINRA upon request.

With respect to trading of shares of the Funds, the ability of market participants to buy and sell shares at prices near the VIIV is dependent upon their assessment that the VIIV is a reliable, indicative correlated value for a Fund's underlying holdings. Market participants may view the VIIV as a reliable, indicative correlated value because (1) the VIIV will be calculated and disseminated based on a Fund's actual portfolio holdings, (2) the securities in which the Funds plan to invest are generally highly liquid and actively traded and therefore generally have accurate real time pricing available, and (3) market participants will have a daily opportunity to evaluate whether the VIIV at or near the close of trading is indeed predictive of the actual NAV.[23] The Exchange, however, notes that the VIIV should not be viewed as a ''real-time'' update of NAV because the VIIV may not be calculated in the same manner as NAV, which is computed once per day.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of an issue of Managed Portfolio Shares that the NAV per share of the Funds will be calculated daily and that the NAV will be made available to all market participants at the same time. Investors can also obtain a Fund's SAI, shareholder reports, Form N–CSR, and Form N–PORT. A Fund's SAI and shareholder reports will be available free upon request from the applicable fund, and those documents and the Form N–CSR and Form N–PORT may be viewed on-screen or downloaded from the Commission's website. In addition, with respect to the Funds, a large amount of information will be publicly available regarding the Funds and the shares, thereby promoting market transparency. Quotation and last sale information for the shares will be available via the CTA high-speed line. Information regarding the VIIV will be widely disseminated every second throughout Regular Trading Hours by one or more major market data vendors. The website for the Funds will include a prospectus for the Funds that may be downloaded, and additional data relating to NAV and other applicable quantitative information, updated on a daily basis.

Moreover, prior to the commencement of trading, the Exchange will inform its members in a Circular of the special characteristics and risks associated with trading the shares. The Exchange will halt trading in the shares under the conditions specified in BZX Rule 11.18 or for reasons that, in the view of the Exchange, make trading in the shares inadvisable. Trading in the shares will be subject to proposed Rule 14.11(k)(4)(B)(iii), which sets forth circumstances under which shares of the Funds will be halted. In addition, as noted above, investors will have ready access to the VIIV, and quotation and last sale information for the shares. The shares will conform to the initial and continued listing criteria under proposed Rule 14.11(k). The Funds will not invest in forwards or swaps. Each Fund's investments will be consistent with its investment objective and will not be used to enhance leverage. While a Fund may invest in inverse ETFs, a Fund will not invest in leveraged (*e.g.,* 2X, –2X, 3X or–3X) ETFs.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the VIIV and quotation and last sale information for the shares.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change, rather will facilitate the listing and trading of actively-managed exchange-traded products that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

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 Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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

[23] The statements in the Statutory Basis section of this filing relating to pricing efficiency, arbitrage, and activities of market participants, including market makers and APs, are based on representation by the Adviser and review by the Exchange.

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2019–057 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–2019–057. 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–2019–057 and should be submitted on or before July 16, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

**Vanessa A. Countryman,**

*Acting Secretary.*

[FR Doc. 2019–13405 Filed 6–24–19; 8:45 am]

**BILLING CODE 8011–01–P**

[24] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 33513; File No. 812–14962]**

## Lord Abbett Credit Opportunities Fund, et al.

June 19, 2019.

**AGENCY:** Securities and Exchange Commission (''Commission'').

**ACTION:** Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c–3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

**SUMMARY OF APPLICATION:** Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares with varying sales loads and asset-based service and/or distribution fees and to impose early withdrawal charges.

**APPLICANTS:** Lord Abbett Credit Opportunities Fund (the ''Initial Fund''), Lord, Abbett & Co. LLC (the ''Adviser'') and Lord Abbett Distributor LLC (the ''Distributor'', and together with the Initial Fund and the Adviser, the ''Applicants'').

**FILING DATES:** The application was filed on October 5, 2018 and amended on March 1, 2019.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 15, 2019, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: John T. Fitzgerald, Vice President and Assistant Secretary, 90 Hudson Street, Jersey City, NJ 07302–3973, and Bryan Chegwidden, Esq., Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY 10036–8704.

**FOR FURTHER INFORMATION CONTACT:** Kyle R. Ahlgren, Senior Counsel or Aaron Gilbride, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at or by calling (202) 551–8090.

### Applicants' Representations

1. The Initial Fund is a Delaware statutory trust that is registered under the Act as a closed-end management investment company and will operate as a non-diversified investment company under the Act. The Initial Fund will operate as an ''interval fund'' pursuant to rule 23c–3 under the Act and intends to continuously offer its shares.

2. The Adviser is a limited liability company organized under the laws of the state of Delaware. The Adviser serves as investment adviser to the Initial Fund. The Adviser is registered with the Commission as an investment adviser under the Investment Advisers Act of 1940, as amended (the ''Advisers Act'').

3. The Applicants seek an order to permit the Initial Fund to issue multiple classes of shares of beneficial interest (''Shares'') with varying sales loads and asset-based service and/or distribution fees and to impose early withdrawal charges (''EWCs'').

4. The Applicants request that the order also apply to any other registered closed-end management investment company that conducts a continuous offering of its shares, existing now or in the future, for which the Adviser, its successors, the Distributor, its successors,[1] or any entity controlling, controlled by, or under common control with the Adviser or the Distributor, or any successor in interest to such entity, acts as investment adviser or principal underwriter, and which provides periodic liquidity with respect to its Shares through tender offers conducted in compliance with either rule 23c–3 under the 1940 Act or rule 13e–4 under the Securities Exchange Act of 1934, as amended (the ''1934 Act'') (each a ''Future Fund'' and, together with the

[1] A successor in interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

Initial Fund, each, a ''Fund'' and collectively, the ''Funds'').

5. The Initial Fund intends to offer its Shares on a continuous basis at net asset value per share plus the applicable sales load, if any. The Shares will not be offered or traded in a secondary market and will not be listed on any securities exchange or quoted on any quotation medium.

6. The Initial Fund will initially issue a single class of Shares (the ''Initial Class Shares''), but may offer investors multiple classes of Shares in the future, with each class of Shares having its own fee and expense structure. Under the proposal, the Initial Class Shares would be an Institutional Share class and would be offered at net asset value per share. A new Share class (the ''New Class'') would be offered at net asset value and may (but would not necessarily) be subject to a front-end sales load, an annual asset-based service and/or distribution fee and/or an EWC. Prior to introducing a Share class that charges distribution and/or service fees, the Initial Fund intends to adopt a distribution and service plan in voluntary compliance with rules 12b–1 and 17d–3 under the Act, as if those rules applied to closed-end management investment companies (a ''Distribution and Service Plan'').

7. From time to time, the Board of a Fund may create and offer additional classes of shares, or may vary the characteristics described above of Initial Class and New Class Shares, including without limitation: (i) The amount of fees permitted by a Distribution and Service Plan as to such class; (ii) voting rights with respect to a Distribution and Service Plan as to such class; (iii) different class designations; (iv) the impact of any class expenses directly attributable to a particular class of Shares allocated on a class basis as described in the Application; (v) differences in any dividends and net asset values per Share resulting from differences in fees under a Distribution and Service Plan or in class expenses; (vi) any EWC or other sales load structure; and (vii) any exchange or conversion features, in each case, as permitted under the Act. Each Fund will comply with the provisions of rule 18f–3 under the Act, as if it were an open-end management investment company.

8. The Initial Fund will be operated as an ''interval fund'' and make quarterly offers to repurchase between 5% and 25% of its outstanding Shares at net asset value per share, pursuant to rule 23c–3 under the Act, unless such offer is suspended or postponed in accordance with regulatory requirements.

9. Under the proposal, each class of Shares would comply with the provisions of rule 12b–1 under the Act, or any successor thereto or replacement rules, as if that rule applied to closed-end management investment companies, and with the provisions of rule 2341 of the Rules of the Financial Industry Regulatory Authority (''FINRA''), as such rule may be amended, or any successor rule thereto (''FINRA Rule 2341'') as if it applied to the Fund issuing such Shares. Applicants represent that each Fund will disclose in its prospectus the fees, expenses and other characteristics of each class of Shares offered for sale by the prospectus, as is required for open-end, multiple class funds under Form N–1A. As if it were an open-end management investment company, each Fund will disclose fund expenses borne by shareholders during the reporting period in shareholder reports and describe in its prospectus any arrangements that result in breakpoints in, or elimination of, sales loads. Each Fund will include any such disclosures in its shareholder reports and prospectus to the extent required as if the Fund were an open-end fund. Each Fund will comply with the provisions of rule 18f–3 under the Act, as if it were an open-end management investment company.

10. Applicants represent that each Fund and the Distributor will also comply with any requirements that may be adopted by the Commission or FINRA regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements as if those requirements applied to the Fund and the Distributor. Applicants further represent that each Fund or the Distributor will contractually require that any other distributor of the Fund's Shares comply with such requirements in connection with the distribution of Shares of the Fund.

11. If a Fund charges a repurchase fee, Shares of the Fund will be subject to a repurchase fee at a rate of no greater than 2.00% of the shareholder's repurchase proceeds if the interval between the date of purchase of the Shares and the valuation date with respect to the repurchase of those Shares is less than one year. Repurchase fees, if charged, will equally apply to New Class Shares and to all classes of Shares of the Fund, consistent with section 18 of the Act and rule 18f–3 thereunder. To the extent that a Fund determines to waive, impose scheduled variations of, or eliminate a repurchase fee, it will do so consistently with the requirements of rule 22d–1 under the Act as if the repurchase fee were a contingent deferred sales load (''CDSL'') and as if the Fund were a registered open-end investment company and the Fund's waiver of, scheduled variation in, or elimination of, the repurchase fee will apply uniformly to all shareholders of the Fund regardless of class.

12. The Initial Fund does not intend to, but a Fund may, offer its shareholders an exchange feature under which the shareholders of the Fund may, in connection with the Fund's periodic repurchase offers, exchange their Shares of the Fund for shares of the same class of (i) registered open-end investment companies or (ii) other registered closed-end investment companies that comply with rule 23c–3 under the Act and continuously offer their shares at net asset value, that are in the Fund's group of investment companies (collectively, the ''Other Funds''). Shares of a Fund operating pursuant to rule 23c–3 that are exchanged for shares of Other Funds will be included as part of the repurchase offer amount for such Fund as specified in rule 23c–3 under the Act. Any exchange option will comply with rule 11a–3 under the Act, as if the Fund was an open-end investment company subject to rule 11a–3. In complying with rule 11a–3 under the Act, each Fund will treat an EWC as if it were a CDSL.

**Applicants' Legal Analysis**

*Multiple Classes of Shares*

1. Section 18(a)(2) of the Act provides that a closed-end investment company may not issue or sell a senior security that is a stock unless certain requirements are met. Applicants state that the creation of multiple classes of shares of a Fund may violate section 18(a)(2) because the Fund may not meet such requirements with respect to a class of shares that may be a senior security.

2. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the proposed multiple class system may be prohibited by section 18(c), as a class may have priority over another class as to payment of dividends because shareholders of different classes would pay different fees and expenses.

3. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that the proposed multiple class system may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(a)(2), 18(c) and 18(i) to permit the Funds to issue multiple classes of shares.

5. Applicants submit that the proposed allocation of expenses relating to distribution and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Fund to facilitate the distribution of Shares and provide investors with a broader choice of shareholder options. Applicants assert that the proposed multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f–3 under the Act. Applicants state that each Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

*Early Withdrawal Charges*

1. Section 23(c) of the Act provides, in relevant part, that no registered closed-end investment company shall purchase securities of which it is the issuer, except: (a) On a securities exchange or other open market; (b) pursuant to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (c) under other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors.

2. Rule 23c–3 under the Act permits an ''interval fund'' to make repurchase offers of between five and twenty-five percent of its outstanding shares at net asset value at periodic intervals pursuant to a fundamental policy of the interval fund. Rule 23c–3(b)(1) under the Act permits an interval fund to deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is paid to the interval fund and is reasonably intended to compensate the fund for expenses directly related to the repurchase.

3. Section 23(c)(3) provides that the Commission may issue an order that would permit a closed-end investment company to repurchase its shares in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

4. Applicants request relief under section 6(c), discussed above, and section 23(c)(3) from rule 23c–3 to the extent necessary for the Funds to impose EWCs on shares of the Funds submitted for repurchase that have been held for less than a specified period.

5. Applicants state that the EWCs they intend to impose are functionally similar to CDSLs imposed by open-end investment companies under rule 6c–10 under the Act. Rule 6c–10 permits open-end investment companies to impose CDSLs, subject to certain conditions. Applicants note that rule 6c–10 is grounded in policy considerations supporting the employment of CDSLs where there are adequate safeguards for the investor and state that the same policy considerations support imposition of EWCs in the interval fund context. In addition, applicants state that EWCs may be necessary for the distributor to recover distribution costs. Applicants represent that any EWC imposed by the Funds will comply with rule 6c–10 under the Act as if the rule were applicable to closed-end investment companies. The Funds will disclose EWCs in accordance with the requirements of Form N–1A concerning CDSLs.

*Asset-Based Distribution and/or Service Fees*

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to the extent necessary to permit a Fund to impose asset-based distribution and/or service fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies, which they believe will resolve any concerns that might arise in connection with a Fund financing the distribution of its shares through asset-based distribution fees.

3. For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further submit that the relief requested pursuant to section 23(c)(3) will be consistent with the protection of investors and will insure that applicants do not unfairly discriminate against any holders of the class of securities to be purchased. Finally, applicants state that the Funds' imposition of asset-based distribution and/or service fees is consistent with the provisions, policies and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

**Applicants' Condition**

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3, 22d–1, and, where applicable, 11a–3 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the FINRA Rule 2341, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

**Vanessa A. Countryman,**

*Acting Secretary.*

[FR Doc. 2019–13414 Filed 6–24–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86147; File No. SR–MRX–2019–13]**

## Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend a Pilot Program

June 19, 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 14, 2019, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I 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 its rules to extend a pilot program to quote and to trade certain options classes in penny increments (''Penny Pilot Program'' or ''Penny Pilot'').

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqmrx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Under the Penny Pilot Program, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot Program is currently scheduled to expire on June 30, 2019.[3] The Exchange proposes to extend the Penny Pilot Program through December 31, 2019.[4] This filing does not propose any substantive changes to the Penny Pilot Program: all classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh any increase in quote traffic.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[5] Specifically, the proposed rule change is consistent with Section 6(b)(5) of the Act,[6] because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change, which extends the Penny Pilot Program for an additional six months, will enable public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[7] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Penny Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Penny Pilot Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 84959 (December 26, 2018), 84 FR 836 (January 31, 2019) (SR–MRX–2018–41).

[4] *See* Supplementary Material .01 to Rule 710.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(8).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] 17 CFR 240.19b–4(f)(6).

to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program.[14] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MRX–2019–13 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MRX–2019–13. 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 submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–MRX–2019–13 and should be submitted on or before July 16, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Vanessa A. Countryman,**

*Acting Secretary.*

[FR Doc. 2019–13410 Filed 6–24–19; 8:45 am]

**BILLING CODE 8011–01–P**

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] *See* Securities Exchange Release No. 61061 (November 24, 2009), 74 FR 62857) (December 1, 2009) (SR–NYSEARCA–2009–44).

[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] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86161; File No. 4–274]**

## Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Order Approving Proposed Amended Plan for the Allocation of Regulatory Responsibilities Between the Financial Industry Regulatory Authority, Inc. and the NYSE Chicago, Inc.

June 20, 2019.

On May 8, 2019, the Financial Industry Regulatory Authority, Inc. (''FINRA'') and the NYSE Chicago, Inc. (''NYSE Chicago'') (together with FINRA, the ''Parties'') filed with the Securities and Exchange Commission (''Commission'') a plan for the allocation of regulatory responsibilities, dated May 7, 2019 (''Amended 17d–2 Plan'' or the ''Amended Plan''). The Amended Plan was published for comment on May 30, 2019.[1] The Commission received no comments on the Amended Plan. This order approves and declares effective the Amended Plan.

## I. Introduction

Section 19(g)(1) of the Act,[2] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or Section 19(g)(2) of the Act.[3] Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[4] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[5] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[6] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO

[1] *See* Securities Exchange Act Release No. 85921 (May 23, 2019), 84 FR 25105.

[2] 15 U.S.C. 78s(g)(1).

[3] 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2), respectively.

[4] 15 U.S.C. 78q(d)(1).

[5] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[6] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

rules.[7] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2under the Act.[8] Rule 17d–2permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for appropriate notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors; to foster cooperation and coordination among the SROs; to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system; and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

## II. Proposed Amended Plan

On September 26, 1978, the Commission approved the Plan allocating regulatory responsibilities pursuant to Rule 17d–2 on a provisional basis.[9] Under the Plan, the predecessor to FINRA was responsible, in part, for conducting on-site examination of each dual member for which it was the DEA. On February 20, 1980, the Commission noticed for comment an amendment to the Plan, which provided, in part, for the handling of customer complaints, the review of dual members' advertising, and the arbitration of disputes under the Plan.[10] On May 30, 1980, the Commission approved the Plan, as amended.[11] On September 8, 2010, the Commission approved an amendment to replace the previous Plan in its entirety.[12] On May 8, 2019, the Parties submitted a proposed amendment to the Plan. The primary purpose of the amendment is to the extent that it becomes a member of the exchange, allocate regulatory responsibility to FINRA for NYSE Chicago's affiliated routing broker-dealer, Archipelago Securities LLC.

## III. Discussion

The Commission finds that the proposed Amended Plan is consistent with the factors set forth in Section 17(d) of the Act[13] and Rule 17d–2(c) thereunder[14] in that the proposed Amended Plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of the national market system. In particular, the Commission believes that the proposed Amended Plan should reduce unnecessary regulatory duplication by allocating to FINRA certain examination and enforcement responsibilities for common members that would otherwise be performed by FINRA and NYSE Chicago. Accordingly, the proposed Amended Plan promotes efficiency by reducing costs to common members. Furthermore, because NYSE Chicago and FINRA will coordinate their regulatory functions in accordance with the Amended Plan, the Amended Plan should promote investor protection.

The Commission notes that, under the Amended Plan, NYSE Chicago and FINRA have allocated regulatory responsibility for those NYSE Chicago rules, set forth in the Certification, that are substantially similar to the applicable FINRA rules in that examination for compliance with such provisions and rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the rule, or a common member's activity, conduct, or output in relation to such rule. In addition, under the Amended Plan, FINRA would assume regulatory responsibility for certain provisions of the federal securities laws and the rules and regulations thereunder that are set forth in the Certification. The common rules covered by the Amended Plan are specifically listed in the Certification, as may be amended by the parties from time to time.

According to the Amended Plan, NYSE Chicago will review the Certification at least annually, or more frequently if required by changes in either the rules of NYSE Chicago or FINRA, and, if necessary, submit to FINRA an updated list of common rules to add NYSE Chicago rules not included on the then-current list of common rules that are substantially similar to FINRA rules; delete NYSE Chicago rules included in the then-current list of common rules that no longer qualify as common rules; and confirm that the remaining rules on the list of common rules continue to be NYSE Chicago rules that qualify as common rules.[15] FINRA will then confirm in writing whether the rules listed in any updated list are common rules as defined in the Amended Plan. Under the Amended Plan, NYSE Chicago also will provide FINRA with a current list of common members and shall update the list no less frequently than once each quarter.[16] The Commission believes that these provisions are designed to provide for continuing communication between the parties to ensure the continued accuracy of the scope of the proposed allocation of regulatory responsibility. In addition, as noted above, the primary purpose of the amendment is to the extent that it becomes a member of the exchange, allocate regulatory responsibility to FINRA for Chicago's affiliated routing broker-dealer, Archipelago Securities LLC. The Commission does not believe that the amendment to the plan raises any new regulatory issues that the Commission has not previously considered.

The Commission is hereby declaring effective an Amended Plan that, among other things, allocates regulatory responsibility to FINRA for the oversight and enforcement of all NYSE Chicago rules that are substantially similar to the rules of FINRA for common members of FINRA and NYSE Chicago. Therefore, modifications to the Certification need not be filed with the Commission as an amendment to the Amended Plan, provided that the parties are only adding to, deleting from, or confirming changes to NYSE Chicago rules in the Certification in

[7] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

[8] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[9] *See* Securities Exchange Act Release No. 15191 (September 26, 1978), 43 FR 46093 (October 5, 1978).

[10] *See* Securities Exchange Act Release No. 16591 (February 20, 1980), 45 FR 12573 (February 26, 1980).

[11] *See* Securities Exchange Act Release No. 16858 (May 30, 1980), 45 FR 37927 (June 5, 1980).

[12] *See* Securities Exchange Act Release No. 62866 (September 8, 2010), 75 FR 55833 (September 14, 2010).

[13] 15 U.S.C. 78q(d).

[14] 17 CFR 240.17d–2(c).

[15] *See* paragraph 2 of the Amended Plan.

[16] *See* paragraph 3 of the Amended Plan.

conformance with the definition of common rules provided in the Amended Plan. However, should the parties decide to add a NYSE Chicago rule to the Certification that is not substantially similar to a FINRA rule; delete a NYSE Chicago rule from the Certification that is substantially similar to a FINRA rule; or leave on the Certification a NYSE Chicago rule that is no longer substantially similar to a FINRA rule, then such a change would constitute an amendment to the Amended Plan, which must be filed with the Commission pursuant to Rule 17d–2 under the Act.[17]

## IV. Conclusion

This order gives effect to the Amended Plan filed with the Commission in File No. 4–274. The parties shall notify all members affected by the Amended Plan of their rights and obligations under the Amended Plan.

*It is therefore ordered*, pursuant to Section 17(d) of the Act, that the Amended Plan in File No. 4–274, between FINRA and NYSE Chicago, filed pursuant to Rule 17d–2 under the Act, hereby is approved and declared effective.

*It is further ordered* that NYSE Chicago is relieved of those responsibilities allocated to FINRA under the Amended Plan in File No. 4–274.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

**Vanessa A. Countryman,**

*Acting Secretary.*

[FR Doc. 2019–13464 Filed 6–24–19; 8:45 am]

**BILLING CODE 8011–01–P**

[17] The addition to or deletion from the Certification of any federal securities laws, rules, and regulations for which FINRA would bear responsibility under the Amended Plan for examining, and enforcing compliance by, common members, also would constitute an amendment to the Amended Plan.

[18] 17 CFR 200.30–3(a)(34).

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 10:00 a.m. on Wednesday, June 26, 2019.

**PLACE:** The meeting will be held at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

**STATUS:** This meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:** Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.* No earlier notice of this meeting was practicable.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

**CONTACT PERSON FOR MORE INFORMATION:** For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: June 20, 2019.

**Vanessa A. Countryman,**

*Acting Secretary.*

[FR Doc. 2019–13529 Filed 6–21–19; 11:15 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 25, 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:** Small Business Administration Surety Bond Guarantee Program was created to encourage surety companies to issue bonds for small contractors. The information collected on these forms from Small Business contractors or surety companies/agents is used to evaluate the eligibility of program application. One form is used by surety companies to request claims payments or report recoveries related to defaulted contractors.

### Solicitation of Public Comments

*Title:* Surety Bond Guarantees Assistance.

*Description of Respondents:* Surety Companies.

*Form Number:* SBA Forms 990, 991, 994, 994B, 994F, 994H.

*Estimated Annual Responses:* 1,026.

*Estimated Annual Hour Burden:* 13,983.

**Curtis Rich,**

*Management Analyst.*

[FR Doc. 2019–13491 Filed 6–24–19; 8:45 am]

**BILLING CODE 8025–01–P**

## DEPARTMENT OF STATE

**[Public Notice: 10802]**

### Certification Pursuant to Section 7041(F)(3) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2019

By virtue of the authority vested in me pursuant to section 7041(f)(3) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2019 (Div. F, Pub. L. 116–6) and Department of State Delegation of Authority 245–2, I hereby certify that Libya's Government of National Accord is cooperating with

United States Government efforts to investigate and bring to justice those responsible for the attack on United States personnel and facilities in Benghazi, Libya in September 2012.

This certification shall be published in the **Federal Register** and, along with the accompanying Memorandum of Justification, shall be reported to Congress.

**John J. Sullivan,**

*Deputy Secretary of State.*

[FR Doc. 2019–13158 Filed 6–24–19; 8:45 am]

**BILLING CODE 4710–10–P**

## SURFACE TRANSPORTATION BOARD

**[Docket No. EP 290 (Sub-No. 5) (2019–3)]**

### Quarterly Rail Cost Adjustment Factor

**AGENCY:** Surface Transportation Board.

**ACTION:** Determination of the rail cost adjustment factor (RCAF) figures for the third quarter of 2019.

**SUMMARY:** The Board finds that the third quarter 2019 RCAF (Unadjusted) is 1.057, RCAF (Adjusted) is 0.447, and RCAF–5 is 0.420.

**DATES:** This decision is effective on July 1, 2019.

**FOR FURTHER INFORMATION CONTACT:** Pedro Ramirez at (202) 245–0333. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:** The Board's decision is posted at *http://www.stb.gov.*

By the Board, Board Members Begeman, Fuchs, and Oberman.

Decided: June 19, 2019.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. 2019–13460 Filed 6–24–19; 8:45 am]

**BILLING CODE 4915–01–P**

## SUSQUEHANNA RIVER BASIN COMMISSION

### Actions Taken at June 14, 2019, Meeting

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Notice.

**SUMMARY:** As part of its regular business meeting held on June 14, 2019, in Harrisburg, Pennsylvania, the Commission approved the applications of certain water resources projects, and took additional actions, as set forth in the **SUPPLEMENTARY INFORMATION** below.

**DATES:** June 14, 2019.

**ADDRESSES:** Susquehanna River Basin Commission, 4423 N Front Street, Harrisburg, PA 17110–1788.

**FOR FURTHER INFORMATION CONTACT:** Jason E. Oyler, General Counsel and Secretary, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address. See also Commission website at *www.srbc.net.*

**SUPPLEMENTARY INFORMATION:** In addition to the actions taken on projects identified in the summary above and the listings below, the following items were also presented or acted upon at the business meeting: (1) Informational presentation of interest to the lower Susquehanna River region; (2) election of the member from the Commonwealth of Pennsylvania as Chair of the Commission and the member from the State of Maryland as Vice Chair of the Commission for the period of July 1, 2019, to June 30, 2020; (3) adoption of the expense budget for FY2021; (4) adoption of the member allocation for FY2021; (5) ratification/approval of contracts/grants; (6) approval of two emergency certificate extensions; (7) a report on delegated settlements; (8) a report on settlement of regulatory violations; (9) adoption of the water resources program for FY2019–2021; (10) adoption of amendments to the Comprehensive Plan for the Water Resources of the Susquehanna River Basin; and (11) Regulatory Program projects.

**Project Applications Approved**

The Commission approved the following project applications:

1. *Project Sponsor and Facility:* Project Sponsor and Facility: ARD Operating, LLC (Pine Creek), McHenry Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 1.500 mgd (peak day) (Docket No. 20150601).

2. *Project Sponsor and Facility:* BKV Operating, LLC (Meshoppen Creek), Washington Township, Wyoming County, Pa. Application for renewal of surface water withdrawal of up to 2.160 mgd (peak day) (Docket No. 20150602).

3. *Project Sponsor and Facility:* BKV Operating, LLC (Susquehanna River), Washington Township, Wyoming County, Pa. Application for surface water withdrawal of up to 2.914 mgd (peak day).

4. *Project Sponsor and Facility:* BKV Operating, LLC (Unnamed Tributary to Middle Branch Wyalusing Creek), Forest Lake Township, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 0.648 mgd (peak day) (Docket No. 20150603).

5. *Project Sponsor and Facility:* Town of Chenango, Broome County, N.Y. Application for renewal of groundwater withdrawal of up to 0.600 mgd (30-day average) from Well 12A (Docket No. 19871103).P

6. *Project Sponsor and Facility:* Epsilon Energy USA, Inc. (East Branch Wyalusing Creek), Rush Township, Susquehanna County, Pa. Application for surface water withdrawal of up to 0.715 mgd (peak day).

7. *Project Sponsor and Facility:* Hydro Recovery, LP, Blossburg Borough, Tioga County, Pa. Application for renewal of groundwater withdrawal of up to 0.216 mgd (30-day average) from Well HR–1 (Docket No. 20150608).

8. *Project Sponsor and Facility:* Hydro Recovery, LP, Blossburg Borough, Tioga County, Pa. Application for renewal of consumptive use of up to 0.316 mgd (peak day) (Docket No. 20150608).

9. *Project Sponsor:* Project Sponsor and Facility: Keystone Clearwater Solutions, LLC (Lycoming Creek), Lewis Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 1.250 mgd (peak day) (Docket No. 20150610).

10. *Project Sponsor:* Ski Roundtop Operating Corporation. Project Facility: Roundtop Mountain Resort (Unnamed Tributary to Beaver Creek), Warrington Township, York County, Pa. Modification to change from peak day to 30-day average for surface water withdrawal and consumptive use limits (Docket No. 20031209).

11. *Project Sponsor and Facility:* Stewartstown Borough Authority, Hopewell Township, York County, Pa. Application for renewal of groundwater withdrawal of up to 0.019 mgd (30-day average) from Well 5A4 (Docket No. 19890703).

12. *Project Sponsor and Facility:* Stewartstown Borough Authority, Hopewell Township, York County, Pa. Application for renewal of groundwater withdrawal of up to 0.033 mgd (30-day average) from Well 5J2 (Docket No. 19890703).

13. *Project Sponsor and Facility:* Stewartstown Borough Authority, Hopewell Township, York County, Pa. Application for renewal of groundwater withdrawal of up to 0.051 mgd (30-day average) from Well 5R2 (Docket No. 19890703).

14. *Project Sponsor:* SUEZ Water Pennsylvania Inc. Project Facility: Newberry Operation, Newberry Township, York County, Pa. Application for renewal of groundwater withdrawal of up to 0.072 mgd (30-day

average) from the Dupont Well (Docket No. 19880401).

15. *Project Sponsor and Facility:* Sunset Golf Course, Londonderry Township, Dauphin County, Pa. Application for groundwater withdrawal of up to 0.059 mgd (30-day average) from Well 7.

16. *Project Sponsor and Facility:* Sunset Golf Course, Londonderry Township, Dauphin County, Pa. Minor modification to add a new source (Well 7) to existing consumptive use approval (no increase requested in consumptive use quantity) (Docket No. 19990506).

17. *Project Sponsor and Facility:* Warwick Township Municipal Authority, Warwick Township, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.288 mgd (30-day average) from Well 1 (Docket No. 19890103).

**Authority:** Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: June 20, 2019.

**Jason E. Oyler,**

*General Counsel and Secretary to the Commission.*

[FR Doc. 2019–13481 Filed 6–24–19; 8:45 am]

BILLING CODE 7040–01–P

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Reallocation of Unused Fiscal Year 2019 Tariff-Rate Quota Volume for Raw Cane Sugar

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice.

**SUMMARY:** The Office of the United States Trade Representative (USTR) is providing notice of country-by-country reallocations of the fiscal year (FY) 2019 in-quota quantity of the World Trade Organization (WTO) tariff-rate quota (TRQ) for imported raw cane sugar.

**DATES:** This notice is applicable on June 25, 2019.

**FOR FURTHER INFORMATION CONTACT:** Dylan Daniels, Office of Agricultural Affairs at 202–395–6095 or *Dylan.T.Daniels@ustr.eop.gov.*

**SUPPLEMENTARY INFORMATION:** Pursuant to Additional U.S. Note 5 to Chapter 17 of the Harmonized Tariff Schedule of the United States (HTSUS), the United States maintains WTO TRQs for imports of raw cane and refined sugar. Section 404(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3601(d)(3)) authorizes the President to allocate the in-quota quantity of a TRQ for any agricultural product among supplying countries or customs areas. The President delegated this authority to the United States Trade Representative under Presidential Proclamation 6763 (60 FR 1007).

On June 29, 2018, the Secretary of Agriculture established the FY 2019 TRQ for imported raw cane sugar at the minimum to which the United States committed to pursuant to the World Trade Organization Uruguay Round Agreements (1,117,195 metric tons raw value (MTRV)). On July 18, 2018, USTR provided notice of country-by-country allocations of the FY 2019 in-quota quantity of the WTO TRQ for imported raw cane sugar. Based on consultation with quota holders, USTR has determined to reallocate 100,071 MTRV of the original TRQ quantity from those countries that have stated they do not plan to fill their FY 2019 allocated raw cane sugar quantities. USTR is allocating the 100,071 MTRV to the following countries in the amounts specified below:

| Country | FY 2019 raw sugar unused reallocation (MTRV) |
|---|---|
| Argentina | 6,662 |
| Australia | 12,859 |
| Barbados | 300 |
| Belize | 1,704 |
| Bolivia | 1,239 |
| Brazil | 22,464 |
| Colombia | 3,718 |
| Costa Rica | 2,324 |
| El Salvador | 4,028 |
| Fiji | 1,394 |
| Guatemala | 7,437 |
| Guyana | 1,859 |
| Honduras | 1,549 |
| India | 1,239 |
| Jamaica | 1,704 |
| Malawi | 1,549 |
| Mauritius | 1,859 |
| Mozambique | 2,014 |
| Nicaragua | 3,254 |
| Panama | 4,493 |
| Peru | 6,352 |
| South Africa | 3,563 |
| Swaziland | 2,479 |
| Thailand | 2,169 |
| Zimbabwe | 1,859 |

USTR based these allocations on the countries' historical shipments to the United States. The allocations of the raw cane sugar WTO TRQ to countries that are net importers of sugar are conditioned on receipt of the appropriate verifications of origin and certificates for quota eligibility must accompany imports from any country for which an allocation has been provided.

*Conversion factor:* 1 metric ton = 1.10231125 short tons.

**Gregory Doud,**

*Chief Agricultural Negotiator, Office of the United States Trade Representative.*

[FR Doc. 2019–13415 Filed 6–24–19; 8:45 am]

BILLING CODE 3290–F9–P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2019–0098]**

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SANDJ3 (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 25, 2019.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2019–0098 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0098 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0098, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change

to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov*.

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel SANDJ3 is:

—*Intended Commercial Use of Vessel:* ''Day charters, site seeing''
—*Geographic Region Including Base of Operations:* ''Illinois, Wisconsin, Michigan'' (Base of Operations: 31st Street Harbor, Chicago, IL)
—*Vessel Length and Type:* 62′ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2019–0098 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

## Public Participation

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov.,* keyword search MARAD–2019–0098 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

## Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy*. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Dated: June 20, 2019.

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2019–13442 Filed 6–24–19; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2019–0101]**

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel MAR Y SOL (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 25, 2019.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2019–0101 by any one of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0101 and follow the instructions for submitting comments.

• *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0101, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey

Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel MAR Y SOL is:

—*Intended Commercial Use of Vessel:* ''Coastwise, limited coastwise, 6 pk''
—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Key West, FL)
—*Vessel Length and Type:* 66′ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2019–0101 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2019–0101 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Dated: June 20, 2019.

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.**

*Secretary, Maritime Administration.*

[FR Doc. 2019–13439 Filed 6–24–19; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2019–0100]**

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel PILAR (Sailing Catamaran); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 25, 2019.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2019–0100 by any one of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0100 and follow the instructions for submitting comments.

• *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0100, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel PILAR is:

—*Intended Commercial Use of Vessel:* ''occasional uninspected vessel charters''
—*Geographic Region Including Base of Operations:* ''South Carolina, North Carolina, Georgia, Florida, Maryland, Virginia, New Jersey, New York (excluding New York Harbor), Delaware, Massachusetts, Maine, New Hampshire, Alabama, Mississippi, Texas, Puerto Rico'' (Base of Operations: Charleston, SC)

—*Vessel Length and Type:* 48′ sailing catamaran

The complete application is available for review identified in the DOT docket as MARAD–2019–0100 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov*, keyword search MARAD–2019–0100 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy*. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Dated: June 20, 2019.

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.**

*Secretary, Maritime Administration.*

[FR Doc. 2019–13441 Filed 6–24–19; 8:45 am]

**BILLING CODE 4910–81–P**

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2019–0106]**

### Request for Comments of a Previously Approved Information Collection

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on March 1, 2019.

**DATES:** Comments must be submitted on or before July 25, 2019.

**ADDRESSES:** Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Deveeda Midgette, Office of Sealift Support, Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366–2354.

**SUPPLEMENTARY INFORMATION:**

*Title:* Request for Transfer of Ownership, Registry, and Flag, or Charter, Lease, or Mortgage of U.S.-Citizen Owned Documented Vessels.

*OMB Control Number:* 2133–0006.

*Type of Request:* Renewal of a Previously Approved Information Collection.

*Background:* This collection provides information necessary for MARAD to approve the sale, transfer, charter, lease, or mortgage of U.S. documented vessels to non-citizens, or the transfer of such vessels to foreign registry and flag, or the transfer of foreign flag vessels by their owners as required by various contractual requirements. The information will enable MARAD to determine whether the vessel proposed for transfer will initially require retention under the U.S.-flag statutory regulations.

*Respondents:* Vessel owners who have applied for foreign transfer of U.S.-flag vessels.

*Affected Public:* Business or other for Profit.

*Total Estimated Number of Responses:* 85.

*Frequency of Collection:* Annually.

*Estimated Time per Respondent:* 2 hours.

*Total Estimated Number of Annual Burden Hours:* 170.

*Public Comments Invited:* Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; 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 respondents, including the use of automated collection techniques or other forms of information technology.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.)

* * * * *

Dated: June 20, 2019.

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2019–13437 Filed 6–24–19; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. DOT–MARAD–2019–0107]**

### Request for Comments of a Previously Approved Information Collection

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on March 1, 2019.

**DATES:** Comments must be submitted on or before July 25, 2019.

**ADDRESSES:** Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Deveeda Midgette, Maritime Administration, Office of Sealift Support, 1200 New Jersey Avenue SE, Washington, DC 20590, 202–366–2354.

**SUPPLEMENTARY INFORMATION:**

*Title:* Regulations for Making Excess or Surplus Federal Property Available to the U.S. Merchant Marine Academy, State Maritime Academies and Non-Profit Maritime Training Facilities.

*OMB Control Number:* 2133–0504.

*Type of Request:* Renewal of a Previously Approved Information Collection.

*Background:* The Maritime Administration requires approved maritime training institutions seeking excess or surplus government property to provide a statement of need/justification prior to acquiring the property.

*Respondents:* Maritime training institutions such as the U.S. Merchant Marine Academy, State Maritime Academies and non-profit maritime institutions.

*Affected Public:* State, Local, or Tribal Government.

*Total Estimated Number of Responses:* 40.

*Frequency of Collection:* Annually.

*Estimated Time per Respondent:* 1 hour.

*Total Estimated Number of Annual Burden Hours:* 40.

*Public Comments Invited:* Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; 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 respondents, including the use of automated collection techniques or other forms of information technology.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.)

* * * * *

Dated: June 20, 2019.

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2019–13436 Filed 6–24–19; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2019–0099]**

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel CHRISTY BLUE (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 25, 2019.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2019–0099 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0099 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0099, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel CHRISTY BLUE is:

—*Intended Commercial Use of Vessel:* ''Sport fishing charter boat''

—*Geographic Region Including Base of Operations:* ''Montana, California, Oregon'' (Base of Operations: Kalispell Mt/San Diego, CA)

—*Vessel Length and Type:* 24′ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2019–0099 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of

MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov.,* keyword search MARAD–2019–0099 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Dated: June 20, 2019.

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2019–13438 Filed 6–24–19; 8:45 am]

**BILLING CODE 4910–81–P**

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2019–0097]**

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ODYSSEUS (Sail Boat); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 25, 2019.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2019–0097 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0097 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0097, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel ODYSSEUS is:

—*Intended Commercial Use of Vessel:* ''Private Day Charter trips and week long charters''

—*Geographic Region Including Base of Operations:* ''Rhode Island, Florida'' (Base of Operations: Newport, RI)

—*Vessel Length and Type:* 50′ sail boat

The complete application is available for review identified in the DOT docket as MARAD–2019–0097 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov.,* keyword search MARAD–2019–0097 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Dated: June 20, 2019.

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2019–13440 Filed 6–24–19; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

## FEDERAL RESERVE SYSTEM

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Joint notice and request for comment.

**SUMMARY:** In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the OCC, the Board, and the FDIC (the agencies) may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has approved the agencies' publication for public comment of a proposal to extend for three years, without revision, the Market Risk Regulatory Report for Institutions Subject to the Market Risk Capital Rule (FFIEC 102), which is currently an approved collection of information for each agency. At the end of the comment period for this notice, the FFIEC and the agencies will review any comments received to determine whether to modify the proposal in response to comments. As required by the PRA, the agencies will then publish a second **Federal Register** notice for a 30-day comment period and submit the final FFIEC 102 to OMB for review and approval.

**DATES:** Comments must be submitted on or before August 26, 2019.

**ADDRESSES:** Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

*OCC:* Commenters are encouraged to submit comments by email, if possible. You may submit comments, which should refer to ''1557–0325'' or ''FFIEC 102,'' by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Office of the Comptroller of the Currency, Attention: 1557–0100, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

*Instructions:* You must include ''OCC'' as the agency name and ''1557–0325'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by any of the following methods:

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Click on the ''Information Collection Review'' tab. Underneath the ''Currently under Review'' section heading, from the drop-down menu select ''Department of Treasury'' and then click ''submit''. This information collection can be located by searching by OMB control number ''1557–0325'' or ''FFIEC 102''. Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.
- *Viewing Comments Personally:* You may personally inspect comments at the OCC, 400 7th Street SW, Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

*Board:* You may submit comments, which should refer to ''FFIEC 102,'' 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 ''FFIEC 102'' 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 *www.federalreserve.gov/generalinfo/foia/proposedregs.cfm* 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 N146, 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.

*FDIC:* You may submit comments, which should refer to ''FFIEC 102,'' by any of the following methods:

• *Agency Website: https://www.fdic.gov/regulations/laws/federal/.* Follow the instructions for submitting comments on the FDIC's website.

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

• *Email: comments@FDIC.gov.* Include ''FFIEC 102'' in the subject line of the message.

• *Mail:* Manuel E. Cabeza, Counsel, Attn: Comments, Room MB–3007, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

• *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

*Public Inspection:* All comments received will be posted without change to *https://www.fdic.gov/regulations/laws/federal/* including any personal information provided. Paper copies of public comments may be requested from the FDIC Public Information Center by telephone at (877) 275–3342 or (703) 562–2200.

Additionally, commenters may send a copy of their comments to the OMB desk officers for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503; by fax to (202) 395–6974; or by email to *oira_submission@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** For further information about the information collections discussed in this notice, please contact any of the agency staff whose names appear below. In addition, copies of the FFIEC 102 reporting forms and instructions can be obtained at the FFIEC's website (*https://www.ffiec.gov/ffiec_report_forms.htm*).

*OCC:* Kevin Korzeniewski, Counsel, Chief Counsel's Office, (202) 649–5490, or for persons who are hearing impaired, TTY, (202) 649–5597.

*Board:* Nuha Elmaghrabi, Federal Reserve Board Clearance Officer, (202) 452–3884, Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869.

*FDIC:* Manuel E. Cabeza, Counsel, (202) 898–3767, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:** The agencies are proposing to extend for three years, without revision, the FFIEC 102, which is currently an approved collection of information for each agency.

*Report Titles:* Market Risk Regulatory Report for Institutions Subject to the Market Risk Capital Rule.

*Form Numbers:* FFIEC 102.

*Frequency of Response:* Quarterly.

*Affected Public:* Business or other for profit.

## OCC

*OMB Number:* 1557–0325.

*Estimated Number of Respondents:* 13 national banks and federal savings associations.

*Estimated Average Time per Response:* 12 hours per quarter.

*Estimated Total Annual Burden:* 624 hours.

## Board

*OMB Number:* 7100–0365.

*Estimated Number of Respondents:* 38 state member banks, bank holding companies, savings and loan holding companies, and intermediate holding companies.

*Estimated Average Time per Response:* 12 hours per quarter.

*Estimated Total Annual Burden:* 1,824 hours.

## FDIC

*OMB Number:* 3064–0199.

*Estimated Number of Respondents:* 1 insured state nonmember bank and state savings association.

*Estimated Average Time per Response:* 12 hours per quarter.

*Estimated Total Annual Burden:* 48 hours.

### *General Description of Reports*

The Market Risk Regulatory Report for Institutions Subject to the Market Risk Capital Rule (FFIEC 102) is filed quarterly with the agencies and provides information for market risk institutions, defined for this purpose as those institutions that are subject to the market risk capital rule as incorporated into Subpart F of the agencies' regulatory capital rules [1] (market risk institutions). Each market risk institution is required to file the FFIEC 102 for the agencies' use in assessing the reasonableness and accuracy of the institution's calculation of its minimum capital requirements under the market risk capital rule and in evaluating the institution's capital in relation to its risks. Additionally, the market risk information collected in the FFIEC 102: (a) Permits the agencies to monitor the market risk profile of, and evaluate the impact and competitive implications of, the market risk capital rule on individual market risk institutions and the industry as a whole; (b) provides the most current statistical data available to identify areas of market risk on which to focus for onsite and offsite examinations; (c) allows the agencies to assess and monitor the levels and components of each reporting institution's risk-based capital requirements for market risk and the adequacy of the institution's capital under the market risk capital rule; and (d) assists market risk institutions in validating their implementation of the market risk framework.

### *Statutory Basis and Confidential Treatment*

The quarterly FFIEC 102 information collection is mandatory for market risk institutions: 12 U.S.C. 161 (national banks), 12 U.S.C. 324 (state member banks), 12 U.S.C. 1844(c) (bank holding companies), 12 U.S.C. 1467a(b) (savings and loan holding companies), 12 U.S.C. 5365 (U.S. intermediate holding companies), 12 U.S.C. 1817 (insured state nonmember commercial and savings banks), and 12 U.S.C. 1464 (savings associations). The FFIEC 102

[1] *12 CFR 3.201* (OCC); *12 CFR 217.201* (Board); and *12 CFR 324.201* (FDIC). The market risk capital rule generally applies to any banking institution with aggregate trading assets and trading liabilities equal to (a) 10 percent or more of quarter-end total assets or (b) $1 billion or more.

information collections are not given confidential treatment.

*Request for Comment*

The agencies invite comment on the following topics related to these collections of information:

(a) Whether the information collections are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this joint notice will be shared among the agencies. All comments will become a matter of public record.

Dated: June 19, 2019.

**Jonathan V. Gould,**

*Senior Deputy Comptroller and Chief Counsel, Office of the Comptroller of the Currency.*

Board of Governors of the Federal Reserve System, June 17, 2019.

**Ann Misback,**

*Secretary of the Board.*

Dated at Washington, DC, on June 18, 2019.

Federal Deposit Insurance Corporation.

**Valerie J. Best,**

*Assistant Executive Secretary.*

[FR Doc. 2019–13473 Filed 6–24–19; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### Notice of OFAC Sanctions Actions

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

**DATES:** See **SUPPLEMENTARY INFORMATION** section for effective date(s).

**FOR FURTHER INFORMATION CONTACT:** *OFAC:* Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

**SUPPLEMENTARY INFORMATION:**

#### Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

#### Notice of OFAC Actions

On June 19, 2019, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person is blocked under the relevant sanctions authority listed below.

*Entity*

1. LIMITED LIABILITY COMPANY NON–BANK CREDIT ORGANIZATION RUSSIAN FINANCIAL SOCIETY (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ НЕБАНКОВСКАЯ КРЕДИТНАЯ ОРГАНИЗАЦИЯ РУССКОЕ ФИНАНСОВОЕ ОБЩЕСТВО) (a.k.a. LLC NCO RUSSIAN FINANCIAL SOCIETY (Cyrillic: НКО РУССКОЕ ФИНАНСОВОЕ ОБЩЕСТВО ООО)), house 9/26, building 1, Shchipok street, Moscow 115054, Russia; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Tax ID No. 7744002860 (Russia); alt. Tax ID No. 770501001 (Russia); Registration Number 1027744004903 (Russia) [NPWMD].

Designated pursuant to section 1(a)(iii) of Executive Order 13382 of June 28, 2005, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters'' (E.O. 13382), for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, DANDONG ZHONGSHENG INDUSTRY & TRADE CO., LTD, a person whose property or interests in property are blocked pursuant to this order.

Dated: June 19, 2019.

**Andrea Gacki,**

*Director, Office of Foreign Assets Control.*

[FR Doc. 2019–13393 Filed 6–24–19; 8:45 am]

BILLING CODE 4810–AL–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form Project

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

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Cyber Assistant Program (Authorized Cyber Assistant Host Application).

**DATES:** Written comments should be received on or before August 26, 2019 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317–5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Authorized Cyber Assistant Host Application.

*OMB Number:* 1545–2170.

*Form Number:* (GMC 6–25–09).

*Abstract:* The form is used by a business to apply to become an Authorized Cyber Assistant Host. Information on this form will be used to assist in determining whether the applicant meets the qualifications to become a Cyber Assistant Host. Cyber Assistant is a software program that assists in the preparation of Form 1023, Application for Recognition of Exemption under Section 501(c)(3).

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations, and other not-for-profit institutions.

*Estimated Number of Respondents:* 100.

*Estimated Time per Respondent:* 2 hours.

*Estimated Total Annual Burden Hours:* 200 hours.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 19, 2019.

**Laurie Brimmer,**

*Senior Tax Analyst.*

[FR Doc. 2019–13397 Filed 6–24–19; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0055]**

## Agency Information Collection Activity Under OMB Review: Request for Determination of Loan Guaranty Eligibility—Unmarried Surviving Spouses

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before July 25, 2019.

**ADDRESSES:** Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0055'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Danny S. Green at (202) 421–1354.

**SUPPLEMENTARY INFORMATION:**

*Authority:* Public Law 104–13; 44 U.S.C. 3501–3521.

*Title:* Request for Determination of Loan Guaranty Eligibility—Unmarried Surviving Spouses, VA form 26–1817.

*OMB Control Number:* 2900–0055.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* VA Form 26–1817 is used by VA to determine whether or not an un-remarried spouse of a Veteran is eligible for the VA home loan benefit. Section 3702(c) of Title 38, U.S.C. states that any Veteran may apply to the Secretary for a Certificate of Eligibility (COE). A completed VA Form 26–1817 constitutes a formal request by an un-remarried surviving spouse for a COE. Upon receipt of VA Form 26–1817 and the required documentation by Loan Guaranty personnel, the application and supporting documents are referred to the Adjudication activity via the Administrative activity for determination of the applicant's basic eligibility. Adjudication will then notify Loan Guaranty about the basic eligibility for issuance of the COE. The information collected on the form provides the essential information necessary for VA to make a proper determination.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 84 FR 07730 on April 18, 2019, page 16343.

*Affected Public:* Individuals or Households.

*Estimated Annual Burden:* 1,250 hours.

*Estimated Average Burden per Respondent:* 15 minutes.

*Frequency of Response:* One-time.

*Estimated Number of Respondents:* 5,000.

By direction of the Secretary.

**Danny Green,**

*VA Interim Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.*

[FR Doc. 2019–13428 Filed 6–24–19; 8:45 am]

BILLING CODE 8320–01–P

# FEDERAL REGISTER

Vol. 84 Tuesday,

No. 122 June 25, 2019


Part II

## Department of Agriculture

Animal and Plant Health Inspection Service

7 CFR Parts 318, 319, 330, et al.
Plant Pest Regulations; Final Rule

**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection Service**

**7 CFR Parts 318, 319, 330, and 352**

**[Docket No. APHIS–2008–0076]**

**RIN 0579–AC98**

## Plant Pest Regulations

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

**ACTION:** Final rule.

**SUMMARY:** We are revising our regulations regarding the movement of plant pests. We are also adding criteria to the regulations for the importation, interstate movement, and release of biological control organisms. This final rule also establishes regulations to allow the interstate movement of certain plant pests and biological control organisms without restriction by granting exceptions from permit requirements for those pests and organisms. Finally, we are revising our regulations regarding the importation and interstate movement of soil. This rule clarifies the points that we will consider when assessing the risks associated with the movement and release of certain organisms and facilitates the movement of regulated organisms and articles in a manner that protects U.S. agriculture.

**DATES:** Effective August 9, 2019.

**FOR FURTHER INFORMATION CONTACT:** Dr. Colin D. Stewart, Assistant Director, Pests, Pathogens, and Biocontrol Permits Branch, Plant Health Programs, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1236; *colin.stewart@usda.gov;* (301) 851–2237.

**SUPPLEMENTARY INFORMATION:**

### Background

Under the Plant Protection Act (7 U.S.C. 7701 *et seq.,* referred to below as the PPA or the Act), the Secretary of Agriculture has authority to carry out operations or measures to detect, control, eradicate, suppress, prevent, or retard the spread of plant pests.[1] Section 7711(a) of the Act provides that no person shall import, enter, export, or move in interstate commerce any plant pest, unless the importation, entry, exportation, or movement is authorized under general or specific permit and in accordance with such regulations as the Secretary may issue to prevent the introduction of plant pests into the United States or the dissemination of plant pests within the United States.

In addition, section 7712(a) of the Act provides that the Secretary may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of, among other things, any biological control organism if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the dissemination of a plant pest or noxious weed within the United States. The Act defines a biological control organism as ''any enemy, antagonist, or competitor used to control a plant pest or noxious weed.''

The purpose of the regulations in ''Subpart B—Movement of Plant Pests'' (7 CFR 330.200 through 330.212) and ''Subpart C—Movement of Soil, Stone, and Quarry Products'' (7 CFR 330.300 through 330.302) is to prevent the dissemination of plant pests into the United States, or interstate, by regulating the importation and movement in interstate commerce of plant pests, soil, stone, and quarry products.

On January 19, 2017, we published in the **Federal Register** (82 FR 6980–7005, Docket No. APHIS–2008–0076) a proposal[2] to revise our regulations regarding the movement of plant pests to include criteria for the importation, movement in interstate commerce, and environmental release of biological control organisms, and to establish regulations to allow the importation and movement in interstate commerce of certain types of plant pests without restriction by granting exceptions from permitting requirements for those pests. We also proposed to revise our regulations regarding the importation and interstate movement of soil. We solicited comments concerning our proposal for 60 days ending March 20, 2017.

We extended the deadline for comments until April 19, 2017, in a document published in the **Federal Register** on February 13, 2017 (82 FR 10444, Docket No. APHIS–2008–0076). We received 62 comments by that date. The comments were from State departments of agriculture, nature centers, research laboratories, professional associations, universities, industry groups, manufacturers, law firms, and private citizens. The comments are discussed below by topic.

*Definitions (§ 330.100)*

We received comments regarding our proposed changes to § 330.100, ''Definitions,'' including requests to include additional terms to the section.

Two commenters asked about the purposes for which continued curation permits are issued.

In proposed § 330.200(a)(3), we included requirements for such permits but did not provide a definition that explains their use. To address these commenters, we are adding a definition for *continued curation permit* to read as set out in the regulatory text below.

We proposed to add the term *import (importation)* to the list of definitions in § 330.100.

A commenter asked if our proposed definition of *import (importation)* means that the organism or article in question arrives in and originates from outside the United States.

The commenter is correct. We define *importation* to mean ''to move into, or the act of movement into, the territorial limits of the United States.''

A commenter asked that we add the term ''plant health'' to § 330.100 and allow industry stakeholders to provide a definition for it.

We are making no changes in response to the commenter's request. ''Plant health'' is not used in any specific or technical context in the proposed or current part 330 regulations and we consider the generally understood meaning of the term to be sufficient.

We proposed to add the term *responsible individual* to § 330.100 to mean the individual designated by the permittee to oversee and control the actions taken under a permit. We are requiring the assignment of a responsible individual to serve as the primary point of contact in order to improve communication between the Animal and Plant Health Inspection Service (APHIS) and the permittee. If the permittee is an individual, that individual can assign him or herself to the role should they so choose. We included as a condition that ''for the duration of the permit, the individual must be physically present during normal business hours at or near the location specified on the permit.''

Several commenters raised questions about our proposed definition of *responsible individual.* One commenter stated that our proposed definition of *responsible individual* does not allow for a designee to substitute for the responsible individual when that individual cannot be at or near the

[1] The Act defines a plant pest as any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: (A) A protozoan; (B) A nonhuman animal; (C) A parasitic plant; (D) A bacterium; (E) A fungus; (F) A virus or viroid; (G) An infectious agent or other pathogen; (H) Any article similar to or allied with any of the articles specified in the preceding subparagraphs.

[2] To view the proposed rule, supporting documents, the comment extension notice, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2008-0076.*

specified location for the duration of the permit due to illness or vacation. The commenter added that, if taken literally, the definition would likely result in nearly every permitted entity being in violation of permit requirements at some point. Similarly, another commenter stated that designating a responsible individual in a field release application is complicated by the fact that the applicant is often not the same person in charge of a field experiment station. The commenter added that a company may test microbial formulations at dozens of sites, making it impossible for one person to enforce permit compliance and be physically present during business hours at each location. The commenter requested that corporate permittees be allowed to designate more than one responsible individual on a permit.

As the commenters noted, many permit applications for regulated articles do involve multiple field sites under the shared responsibility of several persons. Under current policy, we allow application requests to include more than one responsible individual, and more than one site within a single State may be designated as the permit location. This approach has ensured that permit actions are undertaken safely while accommodating stakeholder needs for flexibility. Our intention in proposing the definition was to emphasize responsible oversight of actions taken under the permit without literally requiring an individual's presence during business hours at all locations specified on the permit. Accordingly, we are removing the requirement that the responsible individual be physically present during normal business hours at or near the location specified on the permit as the ultimate destination of the plant pest, biological control organism, or associated article. We continue to require that the responsible individual or individuals ensure compliance with permit conditions during all phases of the activities being performed.

We proposed to define *taxon (taxa)* to mean any recognized grouping or rank within the biological nomenclature of organisms, such as class, order, family, genus, species, subspecies, pathovar, biotype, race, forma specialis, or cultivar.

Two commenters asked for clarification of our proposed definition of *taxon (taxa),* with one commenter suggesting that *taxon (taxa)* be defined by the biopesticide and biostimulant industries.

We defined *taxon* as any recognized grouping or rank within the biological nomenclature of organisms. This definition is consistent with the term as it is used in the International Plant Protection Convention (IPPC's) Glossary of Phytosanitary Terms.[3] Aligning our definition of *taxon* in this way makes it easier to communicate and trade with other IPPC signatory countries. We disagree with the commenter that industry stakeholders should develop a separate definition of *taxon,* as doing so could result in a less flexible definition and potential conflicts with the internationally recognized IPPC definition.

A commenter asked APHIS to add the term ''yield enhancement'' to § 330.100 and to define it as ''the use of microorganisms whose function when applied to plants or the rhizosphere is to stimulate natural processes to benefit nutrient uptake, nutrient efficiency, tolerance to abiotic stress, and crop quality.''

While some organisms we propose to regulate may stimulate natural processes in plants, we have no plans to define ''yield enhancement'' as we make no reference in the regulations to the term or the processes listed by the commenter. The ability of organisms or products to enhance plant yields is not a criterion that APHIS uses when determining whether to regulate an organism as a plant pest or a biological control organism.

*Scope and General Restrictions (§ 330.200)*

We proposed revising the subpart ''Movement of Plant Pests'' to regulate not only plant pests but biological control organisms and associated articles such as soil and packaging material. In proposed § 330.200, we specified the types of plant pests and biological control organisms that APHIS would regulate. We also established restrictions on the importation and movement of biological control organisms and plant pests.

*General Permit*

In § 330.200(a), we proposed to include a general permit as one means by which we may authorize the movement of plant pests, biological control organisms, and associated articles that we regard to be of low risk in certain areas of the United States. We indicated that we have only issued specific permits, that is, permits issued to individual persons, for each movement of plant pests interstate. We noted, however, that section 7711 of the PPA gives APHIS the authority to issue general permits for the importation or interstate movement of plant pests. Such a permit would authorize organizations that frequently move certain low-risk plant pests and organisms interstate to do so without having to obtain an individual permit for each movement. The general permit for the plant pest or organism would be posted on the APHIS website with a list of permit requirements. Persons would not be required to sign a permit or record movements of the plant pest or organism.

Some commenters endorsed the issuance of general permits for the importation and interstate movement of low-risk pests, while others expressed concern about whether a general permit will ensure adequate accountability, enforceability, and risk management. One commenter asked how a corporation or university would be able to apply the conditions of a general permit to every situation and added that assigning responsibility for a permit at an organizational rather than an individual level will dilute that responsibility.

We acknowledge the concerns raised by commenters regarding general permits and questions about accountability and will therefore continue issuing only specific permits in which one or more responsible individuals are identified in the permit and agree to abide by its requirements. However, for future needs we are retaining in the regulations the language we proposed for issuing general permits and reaffirming our authority under the PPA to issue such permits. We will continue to evaluate the uses and purposes of general permits, and whenever we begin issuing them we will announce in a **Federal Register** notice the existence, location, and content of each such permit we issue.

*Types of Plant Pests Regulated*

In proposed § 330.200(b), we specified the types of plant pests that we would regulate under the revised subpart. For the purposes of the subpart, we stated that we consider an organism to be a plant pest if the organism directly or indirectly injures, damages, or causes disease in a plant or plant product, or if the organism is not known to be a risk to plants or plant products but is similar to an organism known to directly or indirectly injure, cause damage to, or cause disease in a plant or plant product.

Several commenters commented on the criteria by which APHIS considers an organism to be a plant pest.

[3] International Standards for Phytosanitary Measures, ISPM 5, ''Glossary of Phytosanitary Terms (2015): *https://www.ippc.int/static/media/files/publication/en/2015/05/ISPM_05_En_2015-05-29_CPM-10.pdf.*

One commenter stated that it would be helpful if the criteria for plant pests could be limited to identifying only pests that cause direct, actual damage to beneficial plants rather than indirect damage. As an example of indirect damage, the commenter cited an organism that has a negative impact on another organism that in turn has a beneficial impact on a desired crop or plant.

We identify those organisms that indirectly harm or cause disease to plants and plant products as plant pests because the consequences of indirect harm can be as disruptive and costly as direct harm, particularly if such organisms establish themselves in the environment or harm organisms having a beneficial impact on crops, to cite the commenter's example. Moreover, the PPA specifically states that causing ''direct or indirect injury to plants or plant products'' is one attribute of a plant pest.

Another commenter stated that a plant pest's effect on plants or plant products is either known or unknown and asked for clarification of proposed § 330.200(b).

If an organism poses an unknown risk to plants or plant products but is similar to a plant pest or pathogen known to directly or indirectly injure, cause damage to, or cause disease in a plant or plant product, we will regulate that organism pending positive identification and an evaluation of the organism's actual risk to plants and plant products.

One commenter recommended that, for organisms that are not known to be plant pests, APHIS should notify the applicant of the reason a permit was required and explain how the organism is similar to one that meets the definition of a plant pest, thereby giving the applicant information needed to address the agency's concern for future regulatory actions for the organism.

We do not consider the commenter's suggestion to be practicable for every permit application involving an organism not known to be a plant pest. However, if a permit applicant has specific questions regarding why a permit is required for a particular organism, we recommend that the applicant contact APHIS.[4]

*Types of Biological Control Organisms Regulated*

In proposed § 330.200(c), we listed the biological control organisms we would regulate under the subpart. We stated that these organisms consist of invertebrate predators, competitors, herbivores, microbial parasites, and microbial pathogens used to control invertebrate plant pests, plant pathogens, and noxious weeds.

A commenter stated that there are approved weed biological control organisms that attack exotic invasive plants not currently listed as ''noxious weeds'' by a regulatory authority. For this reason, the commenter recommended that in proposed § 330.200(c) we use the term ''exotic invasive plants'' instead of ''noxious weeds'' when referring to exotic invasive plants not officially identified as ''noxious.''

An exotic invasive plant can be considered a noxious weed and regulated as such without being listed as a Federal noxious weed as long as it meets the PPA's definition of a noxious weed. Meeting this definition are new incursions of plants that, like listed noxious weeds, can directly or indirectly injure or cause damage to crops, livestock, poultry, other interests of agriculture, or the environment. While federally-recognized noxious weeds are covered under 7 CFR part 360, the use of invertebrate herbivores and microbial pathogens to control such weeds is covered under part 330.

A commenter stated that, for any imported biological control organism, host-specificity testing documentation and identification verification are essential for protecting the resources of the United States.

We agree with the commenter. We exercise considerable care to ensure host specificity before approving an organism for release into the environment. As necessary, we conduct host-specificity testing documentation and identification verification as part of evaluating a permit application. Persons with questions about applications and uses of organisms and host-specificity testing can contact the person listed above under the heading **FOR FURTHER INFORMATION CONTACT**.

*EPA Oversight*

In proposed § 330.200(d), we exempted from this subpart biological control organism products regulated by the Environmental Protection Agency (EPA). This oversight exemption applies only to EPA registered products, experimental use permits, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 18 emergency exemptions, the importation of pesticides being imported under a EPA Pesticide Notice of arrival, as well as the interstate movement of pesticides being moved in accordance with EPA's regulations in 40 CFR 152.30, If EPA does not regulate an organism under APHIS jurisdiction, APHIS would regulate it regardless of whether it is commercial (applied to more than 10 acres) or experimental.

A commenter stated that while the regulatory status of microbial pathogens regulated by EPA is clear, the proposed rule was ambiguous regarding organisms that have been formulated into plant growth-promoting products, also known as biostimulants. The commenter asked what the framework is for regulating plant growth-promoting microbial pathogens and organisms as commercial products excluded from registration under FIFRA.

Although APHIS is not authorized under the PPA to regulate products based on their biostimulant properties, the Act does allow APHIS to regulate and impose restrictions on a product in order to prevent the introduction or dissemination of plant pests within the United States. APHIS will evaluate each product and its uses to assess their potential plant pest risks and determine whether restrictions are warranted based on plant pest risk. Manufacturers or producers of products that EPA determines not to require registration should not assume that they would not be subject to regulation by APHIS under part 330.

A commenter stated that the proposal to establish criteria for the movement and release of unregistered microbial pesticides needs to be clarified in the regulations, suggesting that the expanded ability to import biological control organisms should also include the following: Research samples containing organisms that were part of a fermentation process destined to become an EPA registered bio-pesticide, material no longer meeting EPA-established specifications (expired lots), partially formulated bio-pesticides, experimental formulations, culture strains, and quality control samples.

We will continue to observe EPA's jurisdiction over organisms subject to their regulations as described in § 330.200(d). Other organisms falling outside EPA's jurisdiction but within the scope of APHIS' authority under the PPA will be subject to the regulations under part 330 as appropriate.

A commenter stated that having EPA-registered microbial pesticides be exempt from current APHIS regulations is a positive benefit, but that there needs to be clear, documented guidance to allow for successful clearances at U.S. border facilities.

We noted in the proposed rule that biological control organisms that are pesticides and not registered with EPA,

[4] For questions about organism and soil permits, please call (301) 851–2357 or (866) 524–5421 (toll free), or email *Pest.Permits@usda.gov.*

but that are transferred, sold, or distributed in accordance with EPA's regulations in 40 CFR 152.30, would not be regulated under this subpart for their importation or interstate movement. However, persons desiring to import shipments of biological control organisms that are subject to FIFRA will need to submit to EPA a Notice of Arrival by Pesticides and Devices as required by U.S. Customs and Border Protection (CBP) regulations. APHIS is working closely with CBP and EPA to ensure that such guidance is available and sufficient for clearances at U.S. border facilities.

One commenter asked if APHIS would issue general permits through the process outlined in a Memorandum of Understanding (MOU) with EPA or provide details of the process through APHIS guidance documents.

APHIS has no plans to continue issuing permits for the importation of EPA-registered materials. These items will be imported under EPA's regulatory oversight.

In addition to the MOU between EPA and APHIS, a commenter asked if there would be ongoing coordination between the agencies for regulating new products.

We intend to continue coordinating with EPA with respect to coordinating regulation of new products not yet registered by EPA. APHIS typically confirms EPA product registrations containing specific strains and maintains its own permitting database to include these strains.

A commenter asked if the APHIS regulatory oversight exemption for EPA-regulated materials applies to registered Technical Grade Active Ingredient, End Product, Active Ingredients, and Experimental Use permit materials, as well as Section 18 requests.[5] The commenter added that according to the guidance available, no APHIS permit would be required for any of these products.

The commenter is incorrect. The exemption applies only to EPA registered products and experimental use permits or pesticides being imported under a EPA Pesticide Notice of Arrival.

A commenter stated that in order to prevent ''double regulating,'' APHIS should enter into an MOU with the U.S. Fish and Wildlife Service (USFWS) as it has done with EPA. The commenter stated that USFWS exempts arthropods from their oversight that are ''farm raised'' per the definition in 50 CFR 14.4. The commenter added that many commercially produced biological control arthropods have been farm raised for decades and fall under the definition, nevertheless USFWS requires permits at several ports of entry for organisms already regulated by APHIS.

We acknowledge the commenter's concern to prevent double regulating by APHIS and USFWS and will continue to work with affected entities and the USFWS to identify and address instances of this occurring.

The same commenter recommended that APHIS establish a policy concerning symbionts[6] of pests, noting that while symbionts can promote pest fitness, they can also exist in non-pest contexts, as when a symbiont has multiple hosts. The commenter suggested that we define ''symbiont'' accordingly, as microbial taxa will inevitably occur on a pest host as environmental contaminants. The commenter stated that if detection on a pest host defines a symbiont organism, all environmental taxa might fit the definition of ''symbiont'' because of ephemeral encounters by pest hosts moving within their normal environments.

We acknowledge the commenter's concern but have no plans to provide a definition for ''symbiont.'' We do not use the term in the regulations, and establishing a regulatory policy for all invertebrate plant pests and biological control organisms under a single definition of the term would by necessity be overly broad. Symbiont relationships may be beneficial or detrimental to the organisms involved in combinations and environmental contexts too varied to document. Moreover, the available information regarding symbionts of any particular organism is typically incomplete, with a knowledge base frequently needing to be updated and revised. For these reasons, APHIS will retain the authority under the regulations to regulate symbionts as necessary on a case-by-case basis.

A few commenters stated that we did not define what we mean by ''similar'' in proposed § 330.200(b), ''Plant pests regulated by this Subpart,'' with respect to similarities existing between plant pests having an unknown risk potential and those having a known risk potential. One such commenter suggested that a definition of ''similar'' be defined through guidance instead of including it in the regulations so that APHIS will have sufficient flexibility to define the term based on evolving science. Another commenter noted that regulating organisms based on similarities to other regulated organisms could result in unintended consequences and suggested that such issues may be mitigated in part by using tools such as molecular evaluation of organisms.

We did not include a definition of ''similar'' in the proposed regulations as it is an inherently relative term, and as a commenter noted, scientific methods and genetic comparison techniques are evolving rapidly and requiring APHIS to maintain a degree of regulatory flexibility. A broad definition of ''similar'' that attempts to cover every possible situation would require potentially arbitrary restrictions on the characteristics used to compare organisms. If an initial comparison of an organism reveals similarities with a known plant pest or pathogen, we will undertake a closer evaluation of the pest risk potential for that organism.

*Permit Requirements (§ 330.201)*

Under the proposed section ''Permit requirements,'' we listed the types of permits that would be required for the importation, movement in interstate commerce, and particular uses of plant pests, biological control organisms, and associated articles. We also proposed requirements for permit applicants as well as procedures for evaluating and taking action on permit applications.

In proposed § 330.201(a), we listed the types of permits that APHIS would issue for plant pests, biological control organisms, and associated articles. We also listed permit application requirements and conditions under which APHIS would assess applications and issue, deny, suspend, revoke, and amend permits.

One commenter stated that instead of requiring persons to apply separately for permits for different plant pathogens, APHIS should develop a list of conditions under which qualified persons can transport pathogen cultures, infected plant material, and infected soil under a blanket permit for organisms that will not be released or organisms that are native to a State. The commenter added that having to obtain new permits for every sample can be restrictive with respect to sharing isolates.

The commenter appears to be describing the general permit that we included in the proposal under § 330.200(a). In the above discussion of § 330.200, we decided to defer issuing general permits but are retaining the provision for issuing such permits for

[5] Permits issued under section 18 of FIFRA that allow State and Federal agencies to permit the unregistered use of a pesticide in a specific geographic area for a limited time if emergency pest conditions exist.

[6] Generally defined as organisms that live in symbiosis with one another.

future needs. However, we acknowledge the commenter's suggestion and note that other options are available. Applicants meeting the requirements in proposed § 330.201 may include more than one type of organism and its intended use in a permit application, especially within a discipline such as plant pathology, but we often ask that arthropods and plant pathogens appear on separate applications. This lessens confusion for permit reviewers, permittees, and State and Federal regulators. APHIS also maintains lists of plant pathogenic fungi, bacteria, and viruses recognized as widely prevalent within various States. Finally, we note that we are establishing a petition-based process for listing certain biological control organisms and plant pests (in §§ 330.202 and 330.204, respectively) that may be moved interstate within the continental United States without restriction.

A commenter stated that the availability of a comprehensive list of pathogens that APHIS considers to be high-risk plant pests would alleviate the permit application process and reduce follow-up questions. The commenter added that such a list would help to ensure that sufficient evidence is provided to APHIS for scientific review.

We acknowledge the commenter's suggestion for improving the permit application process. However, we do not consider it practical to compile a comprehensive list of high-risk plant pests, as any criteria we might develop to identify such pests is subject to many situational variables that require case-by-case evaluation. We note that in 7 CFR 331.3 we maintain a list of high-risk biological agents and toxins that have the potential to pose a severe threat to plant health or plant products. Persons applying for a permit for what they believe may be a high-risk organism are encouraged to contact APHIS with any questions they have about preparing and submitting an application.

We proposed in § 330.201(a)(1) that when import permits are issued to a corporate entity, that entity will need to maintain an address or business office in the United States with a designated individual for service of process.

A commenter stated that APHIS should consider whether ''designated individual for service of process'' should use the term in the plural as a way to create more flexibility for the permittee.

''Service of process'' is the act of serving notice of legal action against another party. The ''designated individual'' in proposed § 330.201(a)(1) is a person located in the United States who receives notice of legal action on behalf of the corporate entity. As a corporate entity can designate more than one individual to act in this role, we will change the wording to read ''one or more individuals.''

One commenter noted that many biological products companies conduct research activities in U.S. territories and requested that corporate permits be allowed to cover such activities in those areas.

U.S. territories, as well as the District of Columbia, fall within the definition of *State* under the PPA and part 330, so interstate movement permits for activities regulated under part 330 may be issued for movement from those areas.

*Curation Permits*

In proposed § 330.201(a)(3), we set forth provisions regarding continued curation permits, which are issued in conjunction with either an import permit or interstate movement permit prior to the expiration date of the permit.

A commenter asked whether continued curation permits as proposed in § 330.201(a)(3) are also intended to cover research and diagnostic activities.

Continued curation permits are issued prior to the expiration date for an import or interstate movement permit in order for a permittee to continue research or other actions listed on the import or interstate movement permit. Before a continued curation permit can be issued, the required laboratory conditions for safeguarding organisms received or isolated for research under an import or interstate movement permit must be reevaluated.

Two other commenters asked that we clarify the difference between a continued curation permit and the renewal of an existing movement permit authorizing diagnostic or research activities.

Continued curation permits do not allow acquisition of additional organisms for research and other authorized activities and only address retention of existing organisms for authorized uses. Continued curation permits are intended for situations in which the permit applicant wishes to retain live regulated organisms but does not request permission for their continued or additional movement, which would require a separate permit. The renewal of a permit would allow for such movement, although it is not required that movement occur. Thus it is usually more desirable to renew a permit authorizing movement in case organisms need to be restored or additional organisms might need to be received.

*Application Process and Permit Issuance*

In proposed § 330.201(b), we provided that permit applications would have to be submitted by the applicant in writing or electronically via the internet.

A commenter requested that APHIS continue to modernize its information technology systems to enable multistate listings on a single permit application as allowed by APHIS for permits under its biotechnology regulations in 7 CFR part 340.

We acknowledge the commenter's request. APHIS is modernizing its information technology systems and is currently making only critical technical improvements. However, we will consider including this feature in future updates to the permit application page on the Plant Protection and Quarantine (PPQ) website.

Another commenter stated that it would be useful for applicants to track the progress of permit applications.

We note that a tracking feature exists in the current online electronic permitting system.[7]

One commenter suggested that it might be helpful to have affected scientific societies and their members involved in designing the APHIS permitting process.

APHIS typically solicits comments and feedback from scientific societies and other stakeholders to continuously improve our permitting process. In addition, APHIS received considerable input from other Federal agencies, State regulatory officials, and industry prior to developing the proposed rule.

In the preamble discussion of proposed § 330.201(c), we noted that in order to facilitate timely issuance of a permit, an application should be submitted at least 90 days before the actions proposed on the permit application are scheduled to take place, with additional time allotted for complex or novel applications, or applications for high-risk plant pests. We intended this number of days to be a suggestion to help ensure that permit decisions are made prior to the applicant's proposed permit activity.

One commenter asked that we define ''novel'' within the scope of APHIS' legal authority under the PPA as it relates to plant pests, noxious weeds, and biocontrol organisms. The commenter stated that ''novel'' should

[7] To access an existing account or register for a new APHIS ePermits account, visit ePermits at *https://www.aphis.usda.gov/aphis/resources/permits.*

be defined solely within the scope of APHIS' legal authority under the PPA and not in a general sense.

We disagree with the commenter that our use of the word ''novel'' is outside the scope of our authority under the PPA. The commenter is referring to our use of the word ''novel'' in the proposed rule when referring to permit applications, in which we state that additional time should be allotted for submitting ''complex or novel applications, or applications for high-risk plant pests.'' Such applications typically include new or unusual processes, safeguards, designs, and methods of organism destruction. As APHIS' primary purpose under the PPA is to safeguard the United States against the introduction or infestation of plant pests, noxious weeds, and biological control organisms, novel applications require additional evaluation to ensure that the intended activities do not harbor a new or unforeseen plant pest risk.

Another commenter stated that the proposed rule does not indicate whether the targeted 90 days for submission of a permit application pertains to permits for imports, interstate movements, field releases, or all of these, and asked for clarification.

The guidance regarding 90 days to allow for sufficient processing was suggested for all permit applications.

Two other commenters asked that we provide timelines for permit-related actions and decisions. One suggested that a consultation timeline of 30 days and a permitting timeline of 60 days is reasonable.

As we indicate on the PPQ Plant Health website,[8] permit applications can be processed in as little as 30 days after they are received, but the specific circumstances of many applications make it difficult to publish accurate timelines for evaluating and making decisions on them. These circumstances can include the need for a facility inspection, the need to obtain additional equipment or equipment certifications, or the need for additional information from the applicant. Persons inquiring about the status of a permit application can contact APHIS.[9]

As part of APHIS' action on permit applications, we noted in proposed § 330.201(d)(1) that we will share a copy of the application and the proposed permit conditions with the appropriate State or Tribal regulatory officials.

A commenter stated that APHIS should ensure that proper procedures are in place whenever sensitive permit application information is shared with States or Tribes. The commenter stated that many States and other entities do not have procedures in place to protect sensitive information to the extent that Federal agencies such as APHIS do, adding that many of them are legally required to provide information in their possession through ''Sunshine Acts'' and similar public disclosure laws.

We acknowledge the commenter's concern regarding the protection of sensitive and confidential information. Although APHIS may sometimes request confidential business information as part of the permit application process, as a matter of policy we do not share the sensitive or confidential business information included in applications with States or Tribes.

Another commenter asked if APHIS informs the permit applicant when an application is shared with other persons or groups for analysis, and if so, whether the applicant is informed of who those persons or groups are. The commenter also asked how APHIS handles any objections arising from sharing permit information with third parties.

APHIS typically does not inform permit applicants about details of the evaluation process, of which deliberations with outside experts is sometimes a part. However, if an applicant has questions or concerns about the status of an application and how it is evaluated, he or she can contact APHIS.[10]

We indicated in proposed § 330.201(d)(3)(ii) that permits would be valid for no more than 3 years. One commenter stated that a timeframe of 5 years for a permit to be valid would be more desirable.

We acknowledge the commenter's view but are making no changes to the proposal. Evolving developments in science, technology, and policy necessitate a re-evaluation of permits every few years. Under a longer timeframe, the original conditions of permitted activity could become obsolete or be subject to new policy or regulatory changes.

One commenter said that the requirements for biocontrol agents as currently administered are burdensome. The commenter noted that the APHIS Level 2 user requirement is a significant hurdle to working with many organizations because they are required to obtain this level before they can apply for permits.

The commenter is referring to the requirement for obtaining a Level 2 user account from APHIS, which allows users to apply for permits electronically through the APHIS ePermits system. The ePermits system currently supports Level 2 users for all permit application types and Level 1 users for selected permit application types. Level 2 access differs from Level 1 in that it requires identity authentication either through correctly answering online identity verification questions or by presenting a Government-issued photo ID at a local U.S. Department of Agriculture (USDA) office.[11] APHIS considers the procedures for obtaining a Level 2 user account to be necessary to maintaining adequate security and we do not believe its requirements to be unduly burdensome.

In proposed § 330.201(d)(3), we indicated that APHIS may issue a permit to an applicant if APHIS concludes that the actions indicated in the permit application are not likely to introduce or disseminate a plant pest, biological control organism, or noxious weed within the United States in a manner that exposes plants and plant products to unacceptable risk.

A commenter stated that a purely risk-based approach on deciding whether to issue permits does not consider benefits to U.S. agriculture. The commenter said that the presence of a ''balancing condition'' that considers both risks and benefits is most appropriate for agriculture, and that the absence of such biological control alternatives has resulted in the current standard of chemical control with its associated risks. Another commenter similarly expressed support for researchers who consider both the risks and the benefits of imported biocontrol agents. The commenter noted that Australia has long been a leader in the regulation of biocontrol agents and has included in its analyses both the risks and benefits of importing biological control organisms.

The primary mission of APHIS is to safeguard American agriculture and the environment by applying and enforcing adequate protections to prevent the introduction and spread of harmful organisms. Although we are aware that both risks and benefits can be inherent in any permitting decision, the PPA provides us with no directive to consider benefits when issuing import or movement permits. While the PPA indicates that APHIS should facilitate

[8] The website address is: *https://www.aphis.usda.gov/planthealth/organism-soil-permits.*

[9] See footnote 4 for contact information.

[10] See footnote 4.

[11] See the website address in footnote 7 for more information about obtaining an ePermits account.

the use of biological controls,[12] no part of the Act directs us to consider benefits other than safeguards to reduce risk.

On a practical level, the environmental risk or benefit occurring from release of an organism is circumstantial and difficult to predict. Conducting a risk/benefit analysis requires making assumptions and analyzing hypothetical situations that may or may not occur. Moreover, once a released organism establishes itself in the environment, there may be no way to reverse the action if unexpected risks arise or expected benefits never materialize.

A commenter asked if APHIS evaluates risk differently for different activities when considering issuing a permit for the release of biological control organisms, such as greenhouse releases versus field releases, or for agricultural purposes versus recreational or celebratory events such as weddings. The commenter suggested that APHIS should consider relative risk when making release determinations.

We agree with the commenter. APHIS always evaluates movement or release risk of organisms relative to the individual species and its intended use.

A commenter noted that in proposed paragraphs (d)(3) and (4) of § 330.201, we explain the processes for permit application issuance and denial but provide no details of the initial consultation. The commenter referred to an initial consultation process presented by APHIS–PPQ in September 2016 in which potential applicants consulted with APHIS to determine whether an organism required a permit and, if it did, to gain initial feedback on what data would need to be provided in an application. The commenter asked that we include the consultation process in the regulations to provide transparency and consistency for the entire permitting process.

We do not plan to establish a formal consultation process in the regulations, as the consultation process is specific to the circumstances of each application. However, we will continue to use an informal process of initial consultation for complex situations on a case-by-case basis.

Two commenters raised concerns about the Letters of No Jurisdiction (LONJ) that APHIS issues in response to permit applications for organisms or products that do not fall under APHIS regulatory authority. One commenter acknowledged that although LONJs are important for clearing imported samples through customs, the letters sometimes contain extraneous information that can be confusing to CBP agents. The commenter cited as an example a LONJ stating that a sample can only move from a certain country to a certain State even though APHIS has no jurisdiction over the sample. The commenter asked that we not include country, State, and address information in the LONJ and simply state that the organism is not regulated by APHIS and can be imported and moved without restriction. Another commenter similarly asked that APHIS revise the LONJ to state specifically that all actions taken with the organism or product, such as movement and release, are not under APHIS jurisdiction.

We acknowledge the commenters' concerns and will consider revising our LONJ templates accordingly. If APHIS issues a LONJ for an organism or product, it means that APHIS has no jurisdiction over its movement or release. However, we encourage persons to determine whether other Federal or State agencies have jurisdiction over actions relating to the organism or product.

A commenter requested that APHIS develop guidance to help permit applicants provide the appropriate information to show that an organism is not a plant pest. The commenter stated that if the applicant can provide such information, APHIS should issue a LONJ to the previous permit holder.

We are making no changes in response to the comment's request. Guidance regarding the determination of jurisdiction is intended to be specific to the taxonomic identity and biological properties of the organism listed in the permit application and is not retroactive to previous permit holders. APHIS will continue to work with applicants on a case-by-case basis.

A commenter asked that we not issue Letters of No Permit Required with an expiration date, as doing so results in additional administrative activities for APHIS and the applicant to obtain the same letter again following its expiration. The commenter acknowledged that APHIS has the authority to rescind this letter if circumstances change and the activities instead need to be conducted under a permit.

APHIS issues Letters of No Permit Required for organisms and products over which APHIS has legal authority but has determined that movement of the organism or product presents no appreciable risk. However, as a condition of granting an exception from permit requirements, the letter may base the exception narrowly on how the organisms are used, their geographical location, or other circumstances. Although most such letters issued by APHIS do not include expiration dates, we reserve the right to include them when warranted to maintain the flexibility needed to minimize risks to plants and plant products.

One commenter stated that the proposed permitting requirements for movement or importation of organisms are not consistent with how APHIS administers the permitting process. According to the commenter, the APHIS website states that a PPQ 526 permit typically is not required for the interstate movement or release into the environment of domestically isolated microorganisms that are not plant pests and that are widely distributed in the continental United States. The commenter stated that, despite what the website says, APHIS currently requires permits for microorganisms that are not plant pests that are found and collected in multiple locations in the continental United States.

We regulate microorganisms if they are known plant pests, act as direct biological control organisms, or if their mode of action is unknown. We are therefore obligated to require permits for their interstate movement and importation regardless of how common they are in the environment. We will review our website content and clarify any requirements that may be unclear to readers.

In proposed § 330.201(d)(5), we included provisions for the withdrawal of a permit application. Applicants who wish to withdraw a permit application are required to provide this request in writing to APHIS, which in turn notifies the applicant regarding reception of the request and withdrawal of the application.

A commenter representing a State government wanted to know if withdrawals of applications by permit applicants could be posted on the APHIS ePermit website, or if States could otherwise be notified of the withdrawal. The commenter stated that knowledge of application withdrawals helps the State maintain a better awareness of pest and biocontrol-related activities of familiar and new applicants.

Permit applications withdrawn by APHIS at the request of the applicant are recorded internally within the ePermit system. APHIS does not plan to modify the system to share additional information with States or stakeholders about applications that are not processed to a permit decision. If we consider a permit withdrawal to materially affect a State's agricultural or environmental welfare, we will share

[12] See PPA, section 7701(2), *Findings.*

this information with the State accordingly.

*Biological Control Organisms (§ 330.202)*

In proposed § 330.202, we presented criteria for the importation, interstate movement, and release of biological control organisms. We noted that we regulate biological control organisms under authority of the PPA insofar as they have the potential to pose a plant pest or noxious weed risk.

In § 330.202(a), we proposed general conditions for the importation, interstate movement, and release of biological control organisms. We proposed that, except as provided in proposed § 330.202(b), no biological control organism regulated under the subpart may be imported, moved in interstate commerce, or released into the environment unless a permit has been issued in accordance with § 330.201 authorizing such importation, interstate movement, or release.

A commenter asked how APHIS will determine the pest risk to plants and plant products when considering issuing a permit for a biological control organism.

If APHIS determines the requested biological control organism is not established in the continental United States and will be a first-time release into the environment, we will undertake a more comprehensive evaluation of the permit application. APHIS will conduct a scientific risk review of the proposed release of the particular organism.

*Biological Control Organisms: Exceptions From Permitting*

In the proposed rule, we established a notice-based process [13] by which persons could submit petitions for excepting certain biological control organisms from permitting requirements for importation, interstate movement, or environmental release. As part of this informal adjudication process, we will evaluate each petition we receive to determine whether the biological control organism is of a sufficiently low risk. If we determine there is sufficient evidence that the organism exists throughout its geographical or ecological range in the continental United States and that subsequent releases of the organism into the environment will present no additional plant pest risk, we will announce the availability of the petition in a notice published in the **Federal Register** and solicit public comment.

After we consider the comments we receive, we will announce our final decision on whether to except the organism from permitting requirements in a subsequent notice published in the **Federal Register.** The final notice constitutes final agency action, which is subject to being challenged in court under the Administrative Procedure Act.

We proposed the petition process for permit exceptions because we determined that certain low-risk biological control organisms have become established throughout their geographical or ecological range in the continental United States. The additional release of pure cultures derived from field populations of taxa of these organisms into the environment presents no additional plant pest risk (direct or indirect) to plants or plant products. We posted draft lists of these organisms for comment online.[14]

Referring to the list of organisms excepted from permitting requirements, a commenter asked APHIS to provide examples of items that would be in the list.

We posted examples of invertebrate organisms excepted from permit requirements for review and comment in an online list.[15] Products consisting of mixtures of biological control organisms may also be eligible for exceptions from permitting provided that all organisms included in the formulation appear on the list of exceptions.

With respect to a taxon's establishment throughout its geographical or ecological range, a commenter asked what the taxon is and does it have one strain or multiple strains.

As we noted in our proposed definition of the term, a taxon can be any recognized grouping or rank within the biological nomenclature of organisms, such as class, order, family, genus, species, subspecies, pathovar, biotype, race, forma specialis, or cultivar. A taxon can contain one strain or multiple strains.

A commenter asked if taxon identification will be based on whole genome sequencing.

APHIS will require identification using techniques appropriate for the taxon and the particular circumstances of the permit request.

The same commenter also asked whether a permit will be required to move an organism to a State outside its range if an organism is established throughout its geographic or ecological range within the United States.

If an organism is on the list of biological control organisms excepted from permit requirements, that organism will not require a permit for interstate movement within the continental United States. Inclusion on the list indicates sufficient evidence that the species on the list cannot persist outside of its recorded range and that the species has already had ample opportunity to do so naturally.

The commenter also asked if APHIS will provide public access to the information that we use to determine a taxon's geographical or ecological distribution.

APHIS will provide access to the information referenced by the commenter. If a person petitions for a species to be added to the list of biological control organisms excepted from permit requirements, they do so with the understanding that we will make publicly available any information submitted by the petitioner with respect to determining the distribution of that species.

A commenter representing a State expressed concern that allowing certain biological control organisms to be moved interstate within the continental United States without further restriction does not take into account the organism's status in individual States and that any such list would need to be subject to review by individual States where agents will be used.

As we noted in proposed § 330.201(d)(1), APHIS will share a copy of the petition with the appropriate State or Tribal regulatory officials. APHIS does not approve the use or distribution of biological control organisms within the continental United States without first considering the organism's status in individual States. We also note that § 330.202(e) indicates that any organism may be removed from the list of organisms excepted from permitting requirements if information emerges that would have otherwise led APHIS to deny the petition to add an organism to the list.

In paragraph (b)(1) of § 330.202, we proposed that pure cultures of organisms excepted from permitting requirements may be imported into or moved interstate within the continental United States without further restriction under subpart B of part 330.

[13] We also proposed establishing in § 330.204 a parallel process for excepting certain plant pests from permitting requirements.

[14] See footnote 2 for the draft lists, which include ''Invertebrate Organisms for the Biological Control of Weeds'' and ''Invertebrate Organisms for the Biological Control of Invertebrate Plant Pests.'' These lists will be published and maintained on the PPQ Permits and Certifications website: *https://www.aphis.usda.gov/aphis/resources/permits.*

[15] See footnote 2.

Citing pest risk concerns, several commenters recommended that all imported biological control organisms be excluded from the draft list of organisms excepted from permitting and that such imported organisms not be eligible for the proposed permit exception process. One commenter stated that biological control organisms could be imported from unverified sources and result in the inadvertent introduction of exotic parasitoids. The commenter added that the risk is high for weed biocontrol agents and plant pests because herbivores from a different geographic source than the originally introduced population often have different host ranges or are discovered to be a different species. Another stated that the proposed rule does not account for different or new foreign sources that would be added to the list of pests and organisms excepted from permit requirements, which may present varying levels of risk in terms of the reliability of sources to ensure correct identification, safe release practices, and freedom from contamination by harmful species.

While we have confidence in our proposed petition-based process for excepting organisms from permit requirements that pose a low risk to plants or plant products, we acknowledge that the importation of organisms from new sources and geographic locations could be a potential source of new unapproved exotic species or parasites and diseases of those species. An imported plant pest poses a potentially higher risk level than the same domestic species moved interstate because the former may be carrying unknown diseases or microbial pathogens from the foreign source. Therefore, we will continue at present to require permits for the importation of biological control organisms and plant pests in order to continue the appropriate safeguards with respect to foreign sources. As we envision that stakeholders may wish in the future to import low risk species such as *Drosophila melanogaster,* we will retain the petition process for excepting biological control organisms and plant pests from permitting requirements in §§ 330.202 and 330.204, respectively. If we receive petitions for importing certain organisms or pests without a permit, we will review and consider making the petitions available for public comment. Any organisms and pests that APHIS lists as being able to be moved interstate without a permit will not be eligible to be imported without a permit unless APHIS expressly indicates otherwise.

One commenter objected to any regulation of the interstate movement of beneficial insects and mites because they are not plant pests. The commenter stated that the proposed regulatory changes would place beneficial insects and mites under the same movement restrictions applied to plant pests unless they are included in the list ''Organisms for the Biological Control of Invertebrate Plant Pests.'' The commenter stated that this list should be used to determine whether organisms can cross international boundaries unhindered but that no interstate movement of beneficial insects and mites should be regulated. The commenter also suggested that entire taxa containing no plant pests should be included in the proposed list of excepted organisms, as parasites and predators of plant pests except weed biocontrol agents should be ''innocent until proven guilty.'' The commenter cited as an example of such taxa the predatory mite family *Phytoseiidae,* which according to the commenter contains no species known to cause harm to plants.

We are making no changes with respect to our proposal to regulate beneficial invertebrates as biological control organisms. In response to previous documents published in the **Federal Register** in which we discussed codifying requirements for biological control organisms, some commenters stated that APHIS should regulate biological control organisms only when their efficacy at controlling a target plant pest or noxious weed is in question. However, the risk exists that nonspecific and indiscriminant invertebrate parasites and predators intended for beneficial purposes can also attack non-target invertebrates that are themselves beneficial as pollinators or biocontrol organisms. The draft list we posted for public review and comment contains only those organisms for which there exists an established record of observed information and that meet the criteria for exception from permitting set forth in the regulations. We took this approach to the list to minimize the potential direct or indirect plant risk that adding entire taxa could pose absent an evaluation of the risk potential of these taxa. As authorized under the PPA, APHIS is required to evaluate the plant pest effects that organisms may pose to non-target plants and plant targets and regulate them until we are certain that such organisms can be safely released into the environment without further restriction.

*Pure Culture*

A number of commenters asked us to define ''pure culture.'' One commenter noted that many products containing biological control organisms are typically formulated with carrier or host material, such as insects as a food source for entomophagous mites, and asked if such formulations can be considered as pure cultures. Another commenter stated that the requirements for pure cultures need to be clearly defined to ensure they consist of only specified biological control organisms free of predators, parasites, and pathogens, and contain no host material such as exotic invasive plant propagules. Another commenter expressed concern about how identification or purity of organisms could be assured prior to release into the environment, particularly as the term ''pure culture'' does not appear to be defined in law or policy.

We acknowledge that defining the term ''pure culture'' will provide stakeholders with a clearer understanding of requirements under the regulations and what constitutes a ''clean'' package of organisms excepted from permitting requirements, especially for field collected sources for weed biocontrol. Accordingly, we will define the term *pure culture* as a single species of invertebrate originating only from an identified/described population and free of disease and parasites, cryptic species, soil and other biological material, except host material and substrate as APHIS deems appropriate. Examples of ''identified/described population'' are those originating from a specific laboratory colony or field collection from a specified geographic area, such as an entire country, or States or provinces of a country.

For the excepted biological control organisms listed on the PPQ Permits and Certifications website (referenced in § 330.202(b)), we will also include the sources for each species excepted from permit. For example, species of commercial entomophagous biological control organisms will require verification that they are from domestic laboratory colonies. Likewise, weed biological control organisms will need to be field collected from within the continental United States or derived from domestic colonies from those field sources.

Another commenter asked how ''pure culture'' will be defined if organisms are harvested from the established geographical or ecological range in the continental United States.

As we noted above, a pure culture consists of a single species of invertebrate originating only from an identified/described population and free of disease and parasites, cryptic species, soil and other biological material except

host material and substrate. The source of the organism may originate from the species' established geographical or ecological range within the continental United States.

Another commenter asked whether the term ''pure culture'' also includes ''pure populations'' in reference to invertebrates.

We cannot answer the commenter's question as we do not know what is meant by ''pure populations'' and how it differs from ''pure culture.''

A commenter stated that ''pure culture'' can mean a single species derived from a population in a defined geographical area, but added that the biological control industry also considers the term to mean the absence of contamination in commercial inbound shipments and compliance with ''truth in labeling'' laws that require a package's label to be identical to its content. The commenter stated that packages are randomly checked by USDA inspectors for permitted organisms and that clarification is needed on how to resolve purity issues in organisms excepted from permitting requirements.

As we noted above, we will continue at present to require permits for the importation of biological control organisms and plant pests but will retain the petition process we proposed for excepting biological control organisms and plant pests from permitting in §§ 330.202 and 330.204, respectively. If we receive petitions to allow the importation of certain organisms or pests without a permit, we will review them and submit them for public comment.

A commenter asked what additional documentation or certificates may be required to move organisms and products defined as pure cultures, and what provisions will be implemented to ensure clarity with inspectors when importing listed organisms.

Documents and certificates required to move organisms and products are typically listed on the permit. APHIS provides guidance to CBP so that inspectors are clear about importation requirements for biological control organisms and products.

A commenter recommended that to ensure all redistribution efforts for weed classical biological control organisms, APHIS should consider the Code of Best Practices for Classical Biological Control of Weeds.[16]

APHIS is familiar with the document cited by the commenter and agrees in principle with its best practices.

One commenter expressed concern that if all bacteria belonging to the same genus as a plant pathogen are regulated, students isolating antibiotic-producing *Streptomyces* bacteria in an introductory-level microbiology lab exercise could inadvertently fall under APHIS purview. The commenter stated that this could occur because students would not typically move beyond morphologically classifying their isolates as *Streptomyces* and this genus contains plant pathogens such as *Streptomyces* scabies.

If persons have questions about lab or other specific activities that may fall under APHIS' regulation of plant pathogens, they are encouraged to contact APHIS for clarification.[17]

The commenter also stated that it would be helpful to have access to a comprehensive list of microbial pathogens of concern to APHIS so that stakeholders can identify and deal with problematic taxa appropriately.

APHIS has regulatory authority over all plant pests and biological control organisms moved in interstate commerce and imported into the United States. While we do not keep such a comprehensive list, an extensive table of U.S. regulated plant pests is available on the APHIS–PPQ website.[18]

Proposed § 330.202(c) lists the steps by which APHIS accepts and evaluates petitions for adding biological control organisms to the lists of those organisms granted exceptions from permit requirements for their importation or interstate movement. We noted that we drafted two lists of biological control organisms (one list for control of invertebrate plant pests, one for control of weeds) for which we would grant exceptions from the permit requirements, and made the lists available for comment.[19] Persons could request that an organism be added to a list by submitting a petition to APHIS. A notice of the petition would be published in the **Federal Register** for public comment. We stated in proposed § 330.202(c) that such petitions must provide evidence that the organism is indigenous to the continental United States throughout its range, or self-replicating for a period of time sufficient to consider the organism to be established in its range in the continental United States. The petition would also have to provide results from a field study during which data was collected from representative habitats occupied by the organism and provide any data indicating that subsequent releases of the organism into the continental United States will present no additional plant pest risk.

A commenter stated that, because the proposed rule addresses the process for requesting that biological control organisms be added to the lists of organisms excepted from permit requirements, APHIS needs to make the current list readily available. Another commenter stated that a clear description of how to access the lists is needed, and two other commenters stated that a mechanism for updating the lists also needs to be added to the regulations.

We made draft lists of biological control organisms excepted from permitting available for review at the website address listed in footnote 2.[20] We noted in the proposed rule that while we will consider comments received on the draft lists to be distinct from those received on the proposed rule, the comments received on the draft lists will inform our evaluation of the suitability of the exceptions from permitting requirements contained in proposed § 330.202(b). Once the rule is finalized and a list of excepted organisms is established on the APHIS website, persons can submit petitions according to the provisions included in § 330.202(c).

One commenter supported a process for excepting certain biological control organisms from permit requirements, but expressed concern that publishing petition notices in the **Federal Register** and soliciting public comment may make the process sufficiently onerous as to effectively limit its use. Instead, the commenter suggested that we establish a Technical Advisory Group (TAG) to expedite the listing process for excepted biological control organisms.

APHIS is committed to ensuring transparency and public participation with respect to reviewing petitions for permit exceptions. For this reason, we intend to publish notices of petitions we receive in the **Federal Register** and request public comment on them. We may also use our Stakeholder Registry as another means of notifying the public of proposed actions and requesting comment. Although we maintain an active TAG, we disagree with the commenter and do not consider it to be

[16] *Proceedings of the X International Symposium on Biological Control of Weeds* 435 4–14 July 1999, Montana State University, Bozeman, Montana, USA; Neal R. Spencer [ed.]. p. 435 (2000). (*http://bugwoodcloud.org/ibiocontrol/proceedings/pdf/10_435.pdf.*)

[17] See footnote 4 for contact information.

[18] *https://www.aphis.usda.gov/aphis/ourfocus/planthealth/import-information/rppl/rppl-table.*

[19] See footnote 2.

[20] Invertebrate Organisms for the Biological Control of Weeds; Invertebrate Organisms for the Biological Control of Invertebrate Plant Pests; and Native and Naturalized Plant Pests Permitted by Regulation (Individual Permits not Required) for Their Interstate Movement within the United States.

as efficient or as transparent as the petition comment process. Under § 330.201(d)(1), APHIS will have the option of consulting with technical experts on petitions as the need arises.

The same commenter opposed a blanket permit for interstate movement of select organisms that appears to include fieldto-field collections and releases without screening such organisms for unwanted contaminants, but acknowledged that field-to-field movement can include beneficial predators such as coccinellids (lady beetles). The commenter stated that a blanket permit system may result in intentional or unintentional mislabeling of shipments leading to accidental introduction of a potentially serious pest.

The commenter seems to be referring to the general permit we discuss above, which authorizes organizations that frequently move certain low-risk plant pests and organisms interstate to do so without having to obtain a separate permit for each movement. As we noted, we have decided to defer issuing general permits until a later time. We also note that APHIS does not approve the interstate movement and release of any biological control organism without consideration of the organism's status in individual States, and to that end solicits State review. Moreover, the issue of contaminants is mitigated in two ways. The majority of biocontrol releases are at present coordinated by government-related programs or personnel, who have training and experience in moving clean shipments. Likewise, commercial entities are economically motivated to provide clean, quality shipments. State and local plant regulatory personnel also have the opportunity and authority to observe, report, and enforce regulations regarding the movement and release of non-exempt, contaminant organisms in any shipment.

One commenter stated that movement permits need to be specific to each State, noting that transporting biological control organisms that are effective in California may have consequences if the same agents are used in another State. The commenter cited the potential danger of walnut twig bark beetles on the West Coast spreading Thousand Cankers disease to the Eastern United States. The commenter added that while allowing permits for the transport of biological control organisms may help problems such as this one, it should be the decision of States to allow movement of certain agents across their borders.

The species listed by APHIS for exception from permitting requirements are species that exist throughout their full ecological range in the United States and therefore, from a State-by-State view, are either already present in a given State or have been shown to be unable to live in that State as a self-reproducing population. All other petitions for biological control organisms would be subject to APHIS permits for interstate movement and made available for review and input from Tribal and State representatives as provided for in proposed § 330.201(d)(1).

One commenter observed that the regulatory status of entomopathogenic nematodes is not addressed specifically in the proposed rule.

Entomopathogenic nematodes meet the definition of *biological control organism* we proposed in § 330.100 and therefore we regulate them accordingly. However, we have included seven such species on the draft list of biological control organisms proposed to be excepted from permit, which we posted for public comment.

One commenter stated that in classical biological control, individual populations of a species have been identified as possible importation sources into the United States, but even these need to be quarantined for screening for contaminants. The commenter stated that the list of excepted organisms maintained online should be reviewed in light of the International Code of Best Practices for Biological Control.

We note above that in this final rule we are not at present allowing importation of biological control organisms without a permit but will consider the commenter's suggestion should we begin to do so.

One commenter noted that the need for export certification on biological control organisms is not addressed, and suggested that APHIS should issue permits certifying the condition of organisms and associated articles that are destined for export from the United States. Another commenter stated that the need for export certification on biological control organisms has been addressed in the North American Plant Protection Organization (NAPPO) Regional Standards for Phytosanitary Measures (RSPM) 26 and that the approved RSPM has been waiting for the current proposed rule for appropriate action.

APHIS acknowledges that the proposed regulations do not include provisions for certifying the export of regulated biological control organisms. The IPPC has, however, published a set of guidelines [21] that addresses the export of biological control organisms, and the NAPPO standard [22] addresses foreign export certification requirements for biological control organisms being moved from the United States to Canada or Mexico. As a signatory and participating member of these organizations, APHIS observes internationally agreed upon standards for the export of biological control organisms and products.

Another commenter stated that a generic permit or other indication of status is needed for organisms listed as being excepted from permit requirements and recommended that we explain how the list relates to the biological control species approved in RSPM 26 Appendix II.[23]

The proposed list of biocontrol organisms to be excepted from PPQ permit requirements includes all the species on the list of biological control organisms approved in RSPM 26, Appendix II.

One commenter stated that RSPM 12, ''Guidelines for Petition for First Release of Non-indigenous Entomophagous Biological Control Agents,'' [24] should be added to the rule with respect to the petitioning process for excepted organisms. The commenter added that the RSPM already outlines many of the proposed requirements.

We considered RSPM 12 guidelines when developing the proposed rule. However, RSPM 12 is a tri-national agreement, is intended only as a guideline, and is periodically revised. For these reasons, it would not be practical or necessary to add RSPM 12 guidelines to the regulations.

One commenter proposed that a tiered, science-based approach be adopted to determine permit requirements for microorganisms isolated within the continental United States. The commenter suggested using the following three categories: ''No permit required,'' if the microbe is identified by its complete genome sequence and contains no proven plant pathogenic sequences; ''fast track,'' if the microbe is a member of a taxon not known to be a crop pathogen; and ''all other microorganisms.'' The commenter added that guidelines to the identity of these sequences should be developed by

[21] ISPM 3, ''Guidelines for the export, shipment, import and release of biological control agents and other beneficial organisms,'' published 2016.

[22] RSPM–26 ''Certification of commercial arthropod biological control agents moving into NAPPO member countries,'' published 2015.

[23] *See* footnote 22.

[24] *https://www.nappo.org/files/1814/4065/2949/RSPM12_30-07-2015-e.pdf.*

the biopesticide industry and the research community.

We are making no changes in response to the commenter's proposal. Our approach to determining the permit status and requirements for microorganisms is done on a case-by-case basis. Our requirements for a ''no permit required'' determination include origin and distribution information and intended use that we evaluate for each application. Due to the evolving science, we do not identify specific microbial identification techniques but we do use the best and most appropriate methodology available to identify organisms.

A commenter stated that plant growth and plant health enhancing consortia and biostimulants should be treated the same as biological products making pesticidal claims, since the potential safety hazards are the same for all these groups of novel microorganisms.

Under the PPA, APHIS has no authority to regulate products on the basis of their plant health or growth enhancing attributes, but only on the basis of pest risk potential.

One commenter suggested that a specific organism used to manufacture an EPA-registered biopesticide should not require a plant pest permit to move interstate as a pure culture or as part of a formulation. The commenter added that if a beneficial organism can be applied to crops as a registered biopesticide, a small-scale release from an experimental formulation in a field trial should not pose a risk to U.S. agriculture.

Typically, APHIS does not require a permit for the interstate movement of a product that is regulated by EPA. However, other isolates or non-registered uses may require a permit.

Two commenters addressed the topic of States regulating the movement of plant pests and biological control organisms. One commenter opposed allowing States to establish regulations for interstate movement of organisms that are more restrictive than those established by the Federal Government, while another stated that States have the option of independently establishing more restrictive regulations.

Under the PPA, a State may not regulate the movement in interstate commerce of any biological control organism, plant pest, or noxious weed if the Secretary has issued a regulation or order to prevent its dissemination within the United States. There are two exceptions listed in the Act: A State may impose movement restrictions as long as they are consistent with and do not exceed the regulations or orders issued by the Secretary, and a State may impose movement restrictions that are in addition to Federal restrictions as long as the State demonstrates a clear need to do so based on science and pest risk. As we noted in the proposed rule, States and localities may have laws and regulations that restrict the movement or release of plant pests, biological control organisms, and associated articles for various reasons (for example, impact on the environment of the State or locality), and we encourage applicants to consult with these authorities when applying for a permit.

One commenter stated that if the proposed regulations supersede permits that were specifically issued for national defense projects, means of conveyance, and organisms that are not subject to APHIS regulation (*i.e.,* courtesy permits), then this information needs to be conveyed to regulatory personnel so that packages containing organisms can be transported without inspection delays during the period of transition to the new regulations.

The proposed regulations do not supersede or nullify the status of current, valid permits.

A few commenters questioned whether notice of the petition and public comment are necessary for excepting certain organisms from permit requirements, with one commenter adding that APHIS could simply respond to the petition by conducting the risk assessment and notifying the petitioner of the decision, and that organisms either added or removed from the list could be noted on the website.

APHIS embraces a transparent process and is committed to public involvement during the petition process.

In § 330.202, paragraph (c)(1) states that petitioners proposing additions to the lists of organisms excepted from permitting requirements must provide evidence indicating that the organism is indigenous to the continental United States.

A commenter requested that APHIS provide guidance and examples that would demonstrate that an organism is indigenous.

Guidance and examples for permit applicants are posted on the APHIS Regulated Organism and Soil Permits website.[25] Applicants may also contact APHIS using the information in footnote 4.

A commenter asked if the development of a new biocontrol product involving previously unreleased organisms requires completion of a PPQ 526 Form (Application for Permit to Move Live Plant Pests or Noxious Weeds) and an assessment of potential environmental effects.

Any new biological control organism or product that has not been released into the environment requires completion of a PPQ 526 permit application form and an environmental assessment.

*Soil (§ 330.203)*

As we noted in the proposed rule, we are integrating the soil regulations into the revised ''Subpart B—Plant Pests, Biological Control Organisms, Soil, and Associated Articles.'' We moved the regulation of soil into the revised subpart B in order to highlight the fact that soil, as an associated article, may harbor plant pests and noxious weeds that can be spread within the United States through importation or interstate movement. In proposed § 330.203(a), we established that, as an associated article, the importation or interstate movement of soil is subject to the permitting requirements in § 330.201 unless otherwise indicated in the regulations.

*Soil and Associated Articles From Canada*

We proposed to amend the regulations in § 330.203(b)(1) so that soil from any area of Canada regulated by the Canadian Food Inspection Agency (CFIA, the national plant protection organization of Canada) for a soil-borne plant pest would require a permit. We noted that this change is in response to recent detections of soil-borne plant pests of quarantine significance in new areas of Canada. Previously, permits were required for soil imports from a few small areas of Canada. These areas, and areas with new detections of soil-borne plant pests, are now regulated by the CFIA, and the risk of inadvertently introducing plant pests into the United States is higher in soil imported from these areas.

Two commenters disagreed with this proposed change. One of these commenters asked us to identify the specific quarantined areas in Canada from which importation of soil into the United States is not allowed and requested that we define what information is required with shipments of soil from Canada. The commenter stated that doing so would provide a consistent process for applicants to demonstrate to inspection officials at ports of entry that the soil is not from an area regulated by the CFIA for soil-borne plant pests. Similarly, another commenter asked us to indicate the procedure for proving to U.S. inspectors that imported soil is not from a quarantined area in Canada. The

[25] *https://www.aphis.usda.gov/planthealth/organism-soil-permits.*

commenter stated that there is nothing specified in the proposal on how to prove the soil from Canada is not from a quarantined area.

Persons wishing to import soil into the United States from any area of Canada not regulated by the CFIA for soil-borne plant pests are responsible for verifying to inspectors that the soil is from such a non-regulated area. CBP inspectors at U.S. ports of entry typically require documentation provided by the CFIA to verify soil origin. Inspectors can corroborate this documentation with other shipment documentation, such as a bill of lading, to verify the origin of each shipment. One option for persons for whom providing such documentation is not practicable is to apply for a permit to move such soil. APHIS will evaluate the request and, if no permit is necessary, issue a Letter of No Permit Required on the basis that the soil originates from an area not regulated by CFIA for a soil-borne plant pest.

In paragraphs (b)(2) through (4) of § 330.203, we proposed additional conditions for the importation of soil into the United States.

A commenter asked if each of the purposes listed in those paragraphs requires an import permit along with the other conditions described.

An import permit with specific conditions is required for importation of soil via hand-carry, importation of soil intended for the extraction of plant pests, and importation of soil contaminated with plant pests and intended for disposal.

Section 330.203(b)(3) provides additional conditions for the importation of soil intended for the extraction of plant pests. To mitigate the risk of introducing plant pests through the movement of such soil, we will require the soil to be imported directly to an approved biocontainment facility.

One commenter agreed with the conditions proposed in § 330.203(b)(3) but wanted to know if the biocontainment facility will be at the permittee's destination or at a central inspection center prior to transport to the permittee's final destination. The commenter asked that we specify in the regulations that the facility must be an APHIS-approved biocontainment facility.

We would require such soil to be imported directly to the permittee's APHIS-approved biocontainment facility. Maintaining a biocontainment facility and having APHIS approve it for the extraction of plant pests are prerequisites for this type of permit.

In § 330.203(b)(5), we proposed to establish import permit exemptions for a list of articles, including rocks, silt, clay, and other quarry products, that are not soil. If the article being imported is free of organic material, it will not require an import permit unless the Administrator has issued an order stating that a particular article is an associated article.

A commenter asked us to clarify how § 330.203(b)(5) would apply to the following materials: Products of non-soil stone or quarry products combined with plant nutritive or soil conditioning materials such as composts and manures; bone meal, feather meal, or blood meal; fish, shellfish, or kelp materials; peat, coconut coir, humates, spores or live mycorrhizae, as often used with potting mixes; animal and insect repellent compounds like biological oils or neem oils, or geranium extracts; animal derived or extract materials such as insect pheromones; synthetic chemicals such as pesticides or fertilizers, and recovered nutrients from sewage. The commenter added that many beneficial plant growth products that include these materials are being developed and marketed, and that preventing their interstate movement could significantly inhibit the benefits they provide to agriculture.

To the extent that any of the articles listed by the commenter contain organic material and are thus associated articles having the potential to contain pests or plants and plant parts that pose a risk to American agriculture and the environment, a permit would be required to import such products or to move them interstate. Permit applicants with questions about specific articles can contact APHIS using the information in footnote 4.

The commenter also asked about interstate movement of plant growth enhancers in relation to the permit exemptions in § 330.203(b)(5), which addresses the import of certain articles but makes no reference to interstate movement.

APHIS considers permit requests for importation or interstate movement of the materials listed on a case-by-case basis. To facilitate our evaluation and permit decision process, we typically ask prospective permittees wishing to import or move plant growth enhancers to answer questions located on the APHIS plant growth enhancer website.[26] We note that some animal material, including bone, blood, and feathers, are regulated under the jurisdiction of APHIS Veterinary Services or other Federal agencies.

The same commenter asked whether zeolite minerals, lignitic and humate minerals, various cation-exchange capacity-enhancing clay minerals, phosphate rock, limestone, dolomite, and green sands would be exempt and considered non-soils under this proposed rule.

Articles eligible for exemption in proposed § 330.203(b)(5) must be free of all organic materials and considered to be non-soil. The examples of exempted materials listed in paragraphs (b)(5)(i) through (iv) are not intended to be exhaustive. If the materials cited by the commenter are free of organic material and thus considered to be non-soil, such material will be exempted from permitting requirements.

The commenter also asked if sterilization, heat treating, or other methods of killing possible pathogens or organisms applied to the products cited would allow for them to be exempt from regulation for interstate movement.

If we determine that any of the materials indicated contain soil, then restrictions for the interstate movement of soil will apply. Even if the customer claims that sterilization, heat treatment, or other methods of killing possible pathogens or organisms has been performed on the material and its intended use is for release into the environment, APHIS must first evaluate the material to determine a regulatory action.

Finally, the commenter asked whether meeting the USDA organic standards for composts, minimum heating times, and temperature regimes allow for interstate movement without special permitting or regulation under the proposed regulations.

The National Organic Program is administered by the USDA Agricultural Marketing Service and develops national standards for organically produced agricultural products. Those standards do not address plant pest risks.

As we noted above, we proposed placing revised regulations for the importation and interstate movement of soil under new ''Subpart B—Movement of Plant Pests, Biological Control Organisms, and Associated Articles,'' and removing and reserving current ''Subpart C—Movement of Soil, Stone, and Quarry Products.'' As part of this change, we removed current § 330.301, which contains restrictions for the movement of stone and quarry products from areas in Canada infested with gypsy moth. We explained in the proposed rule that we would retain these conditions but move them to 7 CFR 319.77–4 of ''Subpart R—Gypsy Moth Host Material from Canada,'' as

[26] *https://www.aphis.usda.gov/planthealth/organism-soil-permits.*

we consider that subpart to be a more appropriate location for regulating gypsy moth.

One commenter stated that open gravel pits and other disturbed areas can harbor noxious weeds due to ground disturbances. The commenter expressed concern that importation of stone and quarry products from Canada without proper decontamination for noxious weeds may increase the genetic diversity of the weed population in the United States.

Under the soil regulations in § 330.203(b)(5), we proposed to exempt from regulation the importation and interstate movement of stones, rocks, and other quarry products that are free of organic material. If a shipment of gravel or other stone is found to contain organic material, it will be considered to be an associated article and be subject to the regulations under § 330.203.

Another commenter asked us to revise proposed § 330.203(b)(5)(ii), which includes a permit exemption for sediment, mud, rock, and similar articles from saltwater bodies of water, to include an exemption for similar articles taken from freshwater bodies of water.

We already consider peat, cosmetic mud, and other mud products from freshwater estuaries or the earth's upper surface, if processed to a uniform consistency and free of plant parts and seeds, to be exempt from our regulations. Rocks and other non-soil articles are already exempt under § 330.203(b)(5). However, plant pests can thrive in freshwater bodies of water and therefore articles containing organic material from freshwater bodies of water must be evaluated by APHIS to determine their regulatory status.

In proposed § 330.203(c), we established regulations governing the interstate movement of soil, which includes general conditions for moving soil interstate within the United States and conditions for moving soil interstate for specific purposes. Except for soil moved in accordance with § 330.203(c)(2) through (5), soil may be moved interstate within the United States without a permit or a compliance agreement. We require, however, that all soil moved interstate is subject to any restrictions and remedial measures specified for such movement in our domestic quarantine regulations referenced in 7 CFR part 301.

We proposed in § 330.203(c)(2) that soil may be moved in interstate commerce within the continental United States with the intent of extracting plant pests only if an interstate movement permit has been issued in accordance with § 330.201 and the soil will be moved directly to a biocontainment facility approved by APHIS.

A commenter asked if proposed § 330.203(c)(2) would provide additional conditions for the importation of soil intended for the extraction of plant pests. To mitigate the risk that such soil could present a pathway for the introduction or dissemination of plant pests within the United States, the commenter stated that APHIS would need to require all such soil to be imported directly to an approved biocontainment facility.

As indicated in § 330.203(b)(3), importation of soil into the United States intended for the extraction of plant pests requires a permit and the soil must be moved directly to a biocontainment facility approved by APHIS. The shipment is subject to all conditions for movement specified on the permit, including safeguarding requirements.

Proposed § 330.203(c)(4) allows for the movement of soil samples from an area quarantined in accordance with part 301 without prior issuance of an interstate movement permit, provided that the soil is moved to a laboratory that has entered into and is operating under a compliance agreement with APHIS and is approved by APHIS to conduct chemical/physical tests and analyses of such samples.

One commenter asked if no permit is required for movement of soil under § 330.203(c)(4) will there be another document required to accompany the soil. The commenter also wanted to know if a permit application needs to be submitted for such movement.

Proposed § 330.203(c)(4) requires that the laboratory to which the sample is destined to be moved enter into a compliance agreement with APHIS. The movement can be made without prior issuance of an interstate movement permit.

One commenter stated that the regulations for interstate movement of restricted soil between approved laboratories should be expanded to include foreign soil samples that are otherwise subject to the same handling and disposal requirements. The commenter noted that currently it is necessary to get USDA approval on a case-by-case basis to move foreign samples between laboratories.

Imports of soil, unless otherwise exempted in the regulations, must be accompanied by an import permit and sent directly to an APHIS-approved biocontainment facility. If we authorize additional movements of imported soil, the movements must also be to an APHIS-approved biocontainment facility with the same safeguarding and containment capacity as the original facility and must be moved under a permit as well. As we consider imported soil to present a higher risk to U.S. agriculture and the environment, we consider it necessary to track and approve all foreign soil movements and disposition on a case-by-case basis as part of our standard permit conditions.

*Exceptions To Permitting Requirements for the Importation or Interstate Movement of Certain Plant Pests (§ 330.204)*

In accordance with the PPA, we proposed in § 330.204 to establish regulations allowing the importation and movement in interstate commerce of plant pests without further restriction if we determine that no permit is required. Specifically, we proposed a notice-based petition process by which the public could petition to have pests either added to or removed from the list of plant pests excepted from permitting requirements for importation or interstate movement. As part of this informal adjudication process, we will evaluate the petition to determine whether the plant pest is of a sufficiently low risk. If, after review of the petition, we determine that the plant pest belongs to one of the categories in § 330.204(a) that make it eligible for listing, we will publish a notice in the **Federal Register** announcing the availability of the petition and our intention to add it to the list of plant pests that may be imported into or moved interstate within the continental United States without restriction. We will also solicit public comment on the notice and petition. If after we consider the comments we determine that our conclusions regarding the petition have not been affected, we will publish in the **Federal Register** a subsequent notice stating that the plant pest has been listed and excepted from permitting requirements. This subsequent notice constitutes final agency action, which is subject to being challenged in court under the Administrative Procedure Act.

Several commenters expressed concern that importation of plant pests excepted from permitting could result in new diseases and damage to beneficial plants and plant products within the United States, particularly plant pests imported from new sources and locations.

These comments raise concerns similar to those we received for § 330.202(b), in which we proposed allowing the exception from permitting for the importation and interstate movement of certain biological control

organisms. We acknowledge that the importation of plant pests from new sources and locations could carry a risk for introducing new, unapproved plant pest species or parasites and diseases of those species. An imported plant pest poses a potentially higher risk level than the same domestic species of that pest moved interstate because the former may be carrying unknown diseases or microbial pathogens from the foreign source. Therefore, we will continue at present to require permits for the importation of plant pests. However, we will retain the petition process for excepting plant pests from permit requirements in § 330.204. If APHIS receives a petition for allowing the importation of low risk plant pests without a permit, we will review it. Based on our review, we will either deny the petition or submit it for public comment. Plant pests that APHIS lists as being able to be moved interstate without a permit will not be eligible to be imported without a permit unless APHIS expressly indicates otherwise.

*Categories of Plant Pests Eligible for Exception From Permit Requirements*

In § 330.204(a), we proposed three categories of plant pests that would be eligible for exception from permitting requirements: Pests from field populations or lab cultures derived from field populations of a taxon established throughout its entire geographical or ecological range within the continental United States; pests that are sufficiently attenuated so that they no longer pose a risk to plants or plant products; and pests that are commercially available and raised under the regulatory purview of other Federal agencies.

We are making a change to § 330.204 with respect to excepting from permit requirements certain plant pests imported or moved interstate. In § 330.204(a)(2), we proposed excepting from permit requirements the category of plant pests that are sufficiently attenuated so that they no longer pose a risk to plants or plant products. We noted in the proposed rule that when a pest becomes attenuated, it loses its defining pest or biocontrol properties. For this reason, there is no longer a sufficient basis to presume that the pest presents a risk of injuring, damaging, or causing disease in plants or plant products; in other words, an attenuated pest *de facto* no longer falls within the scope of the definition of *plant pest* under the PPA. Accordingly, we will remove this category from the proposed regulations. In the case of an attenuated pest, we will issue a LONJ to a petitioner rather than a Letter of No Permit Required as the organism is no longer considered to be a plant pest and therefore is not under APHIS' jurisdiction.

A commenter stated that APHIS' guidance about permitting is inconsistent with how we administer the permitting process. The commenter noted that the APHIS website says a permit is typically not required for the interstate movement or release into the environment of domestically isolated microorganisms that are not plant pests and are widely prevalent in the continental United States. The commenter noted that, despite what the guidance says, APHIS currently requires permits for microorganisms that are not plant pests that are found and collected throughout the continental United States.

To address this inconsistency, the commenter requested that we define several terms, including ''common,'' ''prevalent,'' and ''widespread,'' so that persons can determine whether they need a permit for activities involving plant pests and biological control organisms.

We are making no changes in response to the commenter's request as we do not believe that defining these terms is necessary to determining whether a permit is needed for interstate movement or release of a given organism. Persons with questions about whether an activity requires a permit under the regulations are encouraged to contact APHIS.[27]

A commenter representing the State of California noted that the State is opposed to and does not participate in the Widely Prevalent List program. The commenter noted that California is a large State with many microclimates that could support new invasive pests, that potential pathways for invasive species are numerous, and that the introduction of unwanted parasites and pathogens that can accompany such species would increase with a web-based permit system.

APHIS carefully evaluates the pest risk potential of organisms before considering them to be widely prevalent and will not allow any organisms posing a pest risk to be candidates for an exception to the permit requirements.

The same commenter stated his opposition to having the **Federal Register** be the only forum for contributing input regarding the list of plant pests excepted from permit requirements.

In addition to accepting public comments on notices, petitions, and proposed rules published in the **Federal Register**, we typically conduct stakeholder outreach and invite stakeholders to contact APHIS if they have questions or concerns.

A commenter asked whether the application process would exclude those species already on the approved species list for no permit.

The commenter is correct. Species on the list have been determined by APHIS to not require a permit.

A commenter recommended that APHIS clarify that the exempted activities include release into the environment because the definition of *move* includes that action.

We agree with the commenter. Movement without restriction implies all uses, including release.

A commenter asked whether documentation supporting a petition to add or remove organisms from the list of those excepted from permitting requirements will also be made available for comment when the petition is published in the **Federal Register.**

When APHIS issues a notice of petition in the **Federal Register,** we will also make available for comment any documentation available that supports the petition.

A commenter asked whether the omission of ''environmental release'' from the heading of § 330.204(a) is intentional or accidental.

We did not consider it necessary to include the term ''environmental release'' in the heading ''Exceptions to permitting requirements for the importation or interstate movement of certain plant pests'' because the definition of *move (moved and movement)* we proposed in § 330.100 specifically includes releases into the environment.

The commenter also asked if the term ''without restriction'' in § 330.204(a) means that no permit of any kind is needed, and whether States are notified in such cases.

States will be notified of APHIS' decision to not require permits for the importation or interstate movement of a given plant pest or organism. States, however, have the authority to require permits for the movement of these organisms into their boundaries. For example, while no Federal permit is required for the interstate movement of the Madagascar hissing cockroach, the State of Florida requires a permit to move the cockroaches to Florida from another State.

One commenter noted that APHIS maintains a list of plant pests in § 340.2 and stated that, because the authority for APHIS–PPQ and APHIS-Biotechnology Regulatory Services (BRS) to regulate plant pests comes from the PPA, PPQ and BRS should work

[27] See footnote 4 for contact information.

together to ensure that the list in § 340.2 and the proposed list referenced in § 330.204 are consistent.

The list cited by the commenter in § 340.2(a) lists groups of organisms which are or contain plant pests for the purpose of determining what genetically produced or altered plant pests and products are regulated under the regulations in part 340. The list proposed for § 330.204 will include plant pests that may be moved interstate without a permit under the plant pest regulations in part 330. APHIS–PPQ and APHIS–BRS collaborate regularly to ensure that there are no inconsistencies between their respective lists.

Referring to native and naturalized plant pests, a commenter asked APHIS to clarify the meaning of ''permitted by regulation.''

The commenter is referring to the proposed list we made available for review, titled ''USDA–APHIS–PPQ Native and Naturalized Plant Pests Permitted by Regulation (Individual Permits Not Required) For Their Interstate Movement within the United States.'' [28] This refers to the organisms proposed to be excepted from permit requirements under these regulations.

One commenter wanted to know the source of the proposed list we provided for review and what its intended use would be.

Draft lists were developed by APHIS and reviewed by the National Plant Board as well as by professional societies and Tribes. Many of the individual species are of a lower risk and commonly requested in applications processed by APHIS.

The same commenter, citing the categories in paragraphs (a)(2) and (3) of § 330.200, asked which of these categories applies to the list of native and naturalized plant pests permitted by regulation.

Section 330.200(a)(3) refers to organisms under APHIS jurisdiction explicitly granted an exception from permitting requirements in this subpart. The term ''permit by regulation'' used by the commenter was not used in the proposed rule. However, we have used the term in the past in some APHIS documents and communications regarding these proposed regulations to denote the organisms that would be excepted from permitting requirements.

A commenter stated that APHIS should exempt dried herbarium specimens from permitting because they are dried by heating and then frozen. The commenter stated that no disease, pest, or invasive species has escaped from a herbarium specimen.

This rulemaking only covers articles that fall under the plant pest regulations, which includes herbarium specimens of parasitic plants not classified as Federal noxious weeds and specimens collected as plant disease samples. APHIS currently requires pest permits for the movement of these plants because of the potential for the presence of viable seeds in the case of parasitic plants, or of persistent resting stages (*e.g.,* sclerotia, chlamydospores) in the case of plant pathogens. As there is some risk associated with the importation and interstate movement of dried herbarium specimens, we acknowledge that the risk to U.S. agriculture and the environment from these specimens is low as long as risk protocols are observed.

A commenter noted that that tobacco mosaic virus (TMV) is on the proposed list of plant pests excepted from permitting requirements and suggested that tomato mosaic virus (ToMV) be added as well. The commenter stated that while differentiated by serological reaction and the amino acid sequences of the coat protein, these two Tobamoviruses are nearly identical in their control by the tomato and pepper resistance genes, mechanical and seed transmission, and host range.

We disagree with the commenter. Although we acknowledge that TMV and ToMV are similar in morphology and serologically closely related, the sequence information of the genome is distinct enough to differentiate these viruses at a molecular level as different viral species according to the International Committee of Taxonomy of Viruses.[29]

Another commenter stated that the list of plant pests excepted from permitting requirements should contain all plant pests that are widely prevalent and thus present little additional plant pest risk due to movement.

Under the amended regulations, persons will be able to petition APHIS to add such plant pests to the list of plant pests excepted from permitting requirements.

The commenter also recommended that *Pantoea stewartii* (Stewart's wilt) be removed from the list of plant pests excepted from permitting requirements for interstate movement, as it has not been observed in the field for 8 years and testing for this pest costs the seed industry millions of dollars to allow import of seed to other countries.

We agree with the commenter and will remove this species from the list.

We are also changing the name *Agrobacterium tumefaciens* (crown gall) to *Rhizobium radiobacter* on the list of plant pests excepted from permitting requirements for interstate movement. We did this in order to update the name of the organism.

Finally, during Tribal consultation, a Tribe raised concerns about specific biological control organisms included on the draft list of organisms excepted from permitting requirements for interstate movement. Their concern was that the control organisms, which target species of St. John's wort, could be released without a permit on Tribal lands. As a result, we decided to continue to require permits for biological control organisms that target these species.

*Invertebrate Plant Pests*

We received several comments requesting that certain animals be excepted from the permit requirements as plant pests.

Arthropods

Several commenters requested exceptions from permitting requirements for the importation and interstate movement of insects that cannot establish themselves in parts of the continental United States due to seasonal climate differences.

One commenter requested that we except certain ants from regulation as they are already established throughout the United States. The commenter added that several ant species cannot survive outside of heated buildings and are only found living with humans. Similarly, another commenter asked that we allow tropical species to move into the continental United States for use as pets because they cannot become established due to the cold seasonal climate in most of the country and are not threats to agriculture as many do not eat living plants. A few commenters asked that we relax restrictions on species that have been wiped out of an area or tropical species that cannot survive in our climate and that therefore pose no biological threat. Another commenter stated that foreign rhinoceros and stag beetles should be allowed to be imported without a permit because they cannot survive severe winters, acknowledging that warm States such as Florida should require continued monitoring. Another commenter asked that APHIS review, if not eliminate, restrictions upon certain beetle species that are common in zoos and the pet trade. As examples, the commenter cited *Dynastes, Megasoma,* and *Goliathus* species.

[28] See footnote 2 for the location of the draft list.

[29] See *https://talk.ictvonline.org/ictv-reports/ictv_online_report/positive-sense-rna-viruses/w/virgaviridae/672/genus-tobamovirus.*

We do not intend to relax restrictions on the importation and interstate movement of arthropods with respect to seasonal climate differences. The biological threat of arthropod plant pests can be unseen, as unknown diseases and parasitoids may be transported significant distances through the movement and distribution of live specimens. We can, however, consider permit exceptions for arthropod stock that has been isolated and evaluated for disease and parasites. We note that this rulemaking establishes a petition process for persons wishing to add organisms to the list of plant pests that are excepted from permit requirements.

A commenter stated that the U.S. cricket pet food industry has been devastated by epizootic *Acheta domesticus* densovirus outbreaks, and that efforts to find an alternative, virus-resistant field cricket species have led to the widespread U.S. distribution of a previously unnamed *Gryllus* species despite Federal regulations to prevent such movement. The commenter expressed concern that this taxon is likely to become widely distributed throughout the United States and become an established agricultural pest, and claimed that the USDA has taken no action to prevent the movement and sales of *Gryllus.* The commenter asked that all cultures of *G. assimilis* and *G. locorojo* be eliminated from retail outlets in the United States.

We are evaluating our policies for the regulation of crickets and other arthropods used both as feeder insects and fish bait. We intend to address issues relating to the species noted by the commenter through policy statements and the permitting process rather than through rulemaking.

A commenter requested that APHIS use its authority under the PPA to regulate the interstate movement of bumble bee adults, nests, and used nest materials. The commenter also asked APHIS to promulgate rules prohibiting movement of bumble bee adults, nests, and used nest materials outside of their native ranges and to allow such articles to be moved within their ranges only if the permit applicant shows that all such articles are certified to be free of disease.

APHIS has initiated a scientific review and is collecting data regarding the interstate movement of certain species of bumble bee adults, nests, and related articles outside of their native ranges. If we develop such regulations on the movement of bumble bees and related materials, we will promulgate those regulations in 7 CFR part 322, ''Bees, Beekeeping Byproducts, and Beekeeping Equipment.''

A commenter stated that the permit process is onerous for acquiring zebra swallowtail butterflies and other native species that do not harm crops, and suggested that there are many species that are regulated for no good reason.

Zebra swallowtail butterflies are regulated for several reasons. The caterpillars feed on plants (in the genus *Asimina*) which makes them plant pests, placing them under the authority of the PPA. Butterflies are also important pollinators. Distributing zebra swallowtail butterflies significant distances could result in the dissemination of diseases or parasitoids to other lepidopteran species

A commenter stated that it should not be so difficult to obtain a permit to import dead insects because they cause no harm to the environment. The commenter added that just because *Ornithoptera alexandrae* is in need of protection does not mean that all members of the genus *Ornithoptera,* including dead specimens, should require permits for importation.

APHIS does not require import permits for dead insects unless they carry live plant pests or diseases in or on them. As indicated in part 322, we do have separate requirements for the importation of dead bees in the superfamily *Apoidea.* Dead insects and those overseen by the Convention on International Trade in Endangered Species, in particular, are regulated by the USFWS.

Two commenters stated that some species of particular importance to the research community should be included on the proposed list of plant pests excepted from permitting requirements that we provided for review. The species cited by the commenters are: Corn earworm, *Helicoverpa zea;* tobacco budworm, *Heliothis virescens;* European corn borer, *Ostrinia nubilalis,* and codling moth, *Cydia pomonella.* Two commenters supported the inclusion of *Helicoverpa zea, Heliothis virescens, Ostrinia nubilalis,* and *Cydia pomonella* to the proposed list of insect species excepted from permit requirements.

APHIS will consider adding these species to the proposed list of organisms for which no permit is required if we receive the supporting information required as part of the petition process. Many more insect species were initially considered for the list and have been removed at the request of the National Association of State Departments of Agriculture and other groups.

Snails

We also received a number of comments requesting that we exempt certain snails from regulation as plant pests.

One commenter stated that the Federal government overregulates the snail industry. The commenter acknowledged that certain States may need to regulate and monitor movement of *Helix aspersa* movement but disagreed that Federal regulation of the species is necessary. The commenter noted that the need to regulate *H. aspersa* in Minnesota or New York is not as great as it is in Florida, which has already banned the species.

We are making no changes in response to the commenter. The brown garden snail, *Cornu aspersum* (formerly *H. aspersa, Cantareus aspersus,* and *Cryptomphalus aspersus*) is a serious plant pest causing significant damage in areas where it has escaped cultivation. It feeds on a wide range of plant hosts and can be readily transported in contaminated nursery stock. More than 13 States have imposed quarantines against the brown garden snail and several States have spent considerable time and resources to eradicate infestations. We consider it necessary to continue regulating this snail species to prevent new introductions and limit its further spread.

Another commenter stated that certain snail species should be allowed to be transported, raised, and processed for food because they are not a threat to people or the environment. The commenter asked APHIS to create rules allowing easier transport of captive gastropods for pets and to remove the ban on giant African land snails, while another commenter asked that non-plant pest snail species (detritophages and epiphytic growth feeders) be exempted from regulation.

Snail species that are not plant pests are not regulated by APHIS under the regulations in part 330. We will consider adding species to our list of plant pests excepted from permitting if we receive the supporting information required as part of the petition process. However, APHIS will continue to regulate species of snails that are plant pests and cause significant damage in areas where they have escaped cultivation.

*Hand-Carry of Plant Pests, Biological Control Organisms, and Soil (§ 330.205)*

In proposed § 330.205, we included provisions that allow for plant pests, biological control organisms, and soil to be hand-carried into the United States under permit.

A few commenters specifically voiced support for the continued issuance of permits for hand-carrying plant pests, organisms, and soil into the United

States. One commenter disagreed with the 2003 Office of the Inspector General audit referenced in the proposed rule recommending that hand-carry of samples be prohibited and noted that APHIS currently authorizes the importation of plant pests in personal baggage under § 330.212 of the regulations. The commenter agreed with APHIS that individual hand-carry is important from a safeguarding perspective, as this option allows a responsible individual to exercise direct and continuous oversight of an article's importation.

APHIS recognizes the importance of hand-carry and will continue to authorize hand-carry events.

In § 330.205(b), we proposed that hand-carry permittees be required to provide APHIS with a copy of the first page of the passport and other identifying information. In paragraph (c) of § 330.205, we requested that permittees notify APHIS about the dates and itinerary of the permitted movement.

A commenter noted that APHIS makes no mention as to whether the passport page copy is attached to their permit file, or how long APHIS keeps this passport information. The commenter recommended that there be more specific language to address how securely personal information from permit applications will be stored and disseminated.

We have reevaluated the application requirements we proposed for hand-carry permits and determined that making them available on the APHIS website would allow more flexibility to adjust the requirements as conditions warrant. As a result, we are revising § 330.205(b) to state that after the permittee has obtained an import permit but no less than 20 days prior to movement, the permittee must provide APHIS, through its online portal for permit applications or by fax, with the names of the designated hand carrier, or carriers, assigned to that movement. We will also note in paragraph (b) that additional conditions for hand-carry are available on the APHIS website. Other conditions for hand-carry that were contained in proposed paragraph (c) will also be moved to the APHIS website.

The commenter also asked what the expected expiration date of the import permit would be, adding that it is not clearly defined whether the permittee must apply each time they travel but continue with the same permit, or whether the permittee must apply online each time.

We consider each hand-carry trip to be a unique event. For this reason, we require that the person wishing to hand-carry regulated materials or organisms under a current permit to notify APHIS through our online portal of the intention for a hand-carry event.

*Packaging Requirements (§ 330.206)*

We proposed in § 330.206 to include general and specific packaging requirements for the importation, interstate movement, or transit of plant pests, biological control organisms, and associated articles into or through the United States.

Regarding shipping of commercial biological control organisms, a commenter stated that APHIS should cooperate with industry to establish a process for shippers to expedite importation and movement of commercial biological control organisms, and to develop an efficient system for clearing shipments of commercial biological control organisms with potentially affected governmental agencies and State departments of agriculture. The commenter also stated that APHIS should identify points of contact for resolving problems that often occur when importing and transshipping commercial biological control organisms.

APHIS regularly works with industry to improve the efficiency and timeliness for clearance of imported commercial biological control organisms, including designating certain ports where clearance is a priority and delays are minimal. We recognize, however, that these specific designated ports (which is not the same as ''port of entry'') may not be convenient for all importers and situations. APHIS will continue to work with industry to seek additional solutions while maintaining the safeguards needed for importation of live organisms.

A commenter wanted to know why we did not refer to RSPM 39 [30] as it relates to packaging.

We did not refer to the guidelines mentioned by the commenter because we consider the proposed requirements for packaging to be adequate. RSPM 39 provides packaging guidelines to facilitate the movement of invertebrate biological control organisms into NAPPO member countries. The provisions and recommendations of RSPM 39, as currently written, exceed the packaging requirements of § 330.206. Moreover, RSPM guidelines are subject to change independent of the status of the plant protection regulations of any member country.

The commenter also asked whether organisms attenuated and excepted from permitting are also exempt from packaging requirements, as they do not require a permit.

As we noted in the above discussion of § 330.204, attenuated organisms will no longer be considered as plant pests and therefore not included on the exception list.

In proposed § 330.206(a), we include packaging requirements for the outer shipping container and inner packages. These include the requirements that the outer shipping container must be rigid, impenetrable, and durable enough to remain closed and structurally intact, and that inner packages must be sealed.

A few commenters expressed concerns about the lack of flexibility in the proposed packaging requirements, particularly as they relate to the environmental needs of live organisms.

One commenter stated that some packaged cultures consume oxygen quickly and generate carbon dioxide, creating conditions that kill beneficial organisms if there are no air holes for oxygen exchange. As an example, the commenter cited the current use of strong cardboard boxes with 1 to 1.5-inch holes drilled in the sides for transporting commercial packages of beneficial organisms, including predatory mites and lady beetles. The commenter emphasized that the packaging described in the proposed regulation would block all airflow vital for the survival of beneficial organisms. For interstate travel of organisms that are not plant pests, the commenter stated that containment in one layer of packaging plus an outer breathable layer that keeps the inner packages from impact should be sufficient. Another commenter recommended establishing a performance-based standard for packaging that would require the permittee to ship the organism or soil in a secure manner and suggested that APHIS provide guidance and examples on its website for meeting this standard.

We acknowledge the commenters' concerns about the packing regulations and organism viability during shipment. We note that the regulations allow for modifications as long as they are in keeping with the proposed requirement that the packaging should not be capable of harboring or being a means of dissemination of the organism or article. For example, the requirement in § 330.206(a) that inner packages must be ''securely sealed'' does not equate to ''airtight'' unless it is appropriate to the organisms being shipped. We agree that additional guidance can be helpful, and accordingly APHIS will continue to

[30] *http://www.nappo.org/files/5714/3889/7020/RSPM39Rev-08-12-2014-e.pdf.*

work with industry and other stakeholders to address their concerns.

In proposed paragraphs (b) and (c) of § 330.206, we required that packing material and shipping containers be new, sterilized, or disinfected prior to reuse, or otherwise destroyed or disposed of at the point of destination.

A commenter suggested that the provision prohibiting the reuse of shipping containers, except for those sterilized or disinfected prior to reuse, should not apply to most insect shipments. The commenter stated that it is costly and time consuming to disinfect cardboard clad foam shippers, and that using only new containers will generate additional waste. Another commenter agreed that not all shipping containers warrant sterilization and suggested revising proposed § 330.206(c). As an illustration, the commenter cited the content of a shipment containing all life stages of live insects within multiple packages. The commenter stated that the removal of only the inner containment packaging, which holds the insects, should suffice as decontamination.

We agree with the commenters that shipping containers do not warrant sterilization or disinfection for reuse as long as the inner packaging sufficiently contains the organisms to prevent contamination of the outer shipping container. We are revising § 330.206(c) accordingly.

*Costs and Charges (§ 330.207)*

In proposed § 330.207, we stated that we would furnish inspection services without cost during regularly assigned hours of duty and usual places of duty. We also stated that APHIS would not be responsible for any costs or charges incidental to inspections or compliance with the provisions of this subpart other than the services of the inspector.

A commenter asked if APHIS imposes charges for inspections and compliance checks. Another commenter recommended that APHIS include guidelines for charges associated with conducting inspections and verifying compliance with the regulations.

As we note in § 330.207, APHIS does not impose charges for inspections and compliance checks carried out during regularly assigned hours and usual places of duty. As we furnish inspection services under these conditions without cost, we see no reason to include guidelines for charging for such services.

*Other Comments*

Several persons submitted general comments that did not address specific provisions included in the proposal.

One commenter noted that in a separate proposal to revise the regulations to 7 CFR part 340, APHIS noted that a genetically engineered plant pest organism meeting a proposed exemption from the part 340 definition of *genetic engineering* would still be subject to part 330 because an exemption, by its nature, is not considered an ''explicit authorization.'' The commenter asked that we wait to promulgate any final rule under part 330 until we fully consider comments received under the separate part 340 proposed rulemaking.

On November 7, 2017, APHIS published a document [31] in the **Federal Register** announcing withdrawal of the proposal referred to by the commenter.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule with the changes discussed in this document. Executive Orders 12866, 13563, 13771, and Regulatory Flexibility Act.

This final rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

This final rule is considered an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the rule's economic analysis.

We have prepared an economic analysis for this rule. The economic analysis provides a cost-benefit analysis, as required by Executive Orders 12866 and 13563, which 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, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The economic analysis also provides a final regulatory flexibility analysis that examines the potential economic effects of this rule on small entities, as required by the Regulatory Flexibility Act. The economic analysis is summarized below. Copies of the full analysis are available on the *Regulations.gov* website (see footnote 2 in this document for a link to *Regulations.gov*) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

This rule will amend regulations regarding the importation, interstate movement, and environmental release of plant pests to incorporate provisions regarding biological control organisms and the movement of soils from which plant pests and biological control organisms are extracted. The rule adds definitions, streamlines the permitting and compliance processes, and provides APHIS with increased flexibility in the regulation of plant pests. The regulations in 7 CFR parts 318, 319, and 352 will be updated to reflect the changes in part 330. The rule will codify an existing process for electronically requesting permits. Using the online permit process yields time and cost savings as compared to mailing paper applications.

The rule will also reduce the number of permits issued under part 330, which numbered 6,538 in fiscal year (FY) 2015. About one-third of these permits (2,158) were for the movement or environmental release of plant pests or biological control organisms for which this rule will authorize exemption from permitting requirements, based on plant health risks. Their exemption from permitting requirements will reduce the permitting burden for applicants. Because one permit may list multiple biological control organisms or plant pests, we expect, overall, a 10 to 30 percent reduction in the time spent acquiring permits under part 330. Based on the 6,538 permits issued in FY 2015, and assuming the time required to submit an application is one hour, the annual time savings attributable to the rule will total between 654 and 1,961 hours. Given an average hourly wage of $44.50 per hour, the annual total cost savings will be between about $29,100 and $87,300.

In accordance with guidance on complying with Executive Order 13771, the primary estimate of annualized cost savings attributable to this rule is $54,950 (including consideration of the cost of unscheduled assessments by APHIS of sites, facilities, and means of conveyance). This value is the mid-point estimate of cost savings annualized in perpetuity using a 7 percent discount rate.

Listing of exempted organisms on an APHIS–PPQ website, transparent procedures for petitioning for exceptions or exemptions to permitting, and provision for a notice-based process for adding and removing listed organisms will also combine to make an efficient, transparent, and user-responsive system that will facilitate the movement and environmental release of plant pests and biological control organisms.

[31] *https://www.federalregister.gov/documents/2017/11/07/2017-24202/importation-interstate-movement-and-environmental-release-of-certain-genetically-engineered.*

Certain regulated entities will continue to incur time costs associated with providing information during the permitting application process as was experienced before this rule was proposed. The time required overall for permitting will be reduced, however, because of the exempted organisms and the online, streamlined permitting system.

These revisions to part 330 will benefit entities, large and small, by increasing the efficiency of the permitting and compliance processes and by improving the clarity and transparency of these regulations. The majority of entities that will benefit from this rule are small, based on information obtained from the U.S. Economic Census. These entities include: Academic, government, and commercial researchers; diagnostic enterprises such as plant pathogen diagnostic laboratories; biological supply enterprises that include suppliers of biology teaching kits and suppliers of butterflies for release at special occasions; biological control organism producers; educational display enterprises such as butterfly houses, zoos, and museums; discovery companies that evaluate living organisms for novel pharmaceuticals and pesticides; taxonomists and systematists; educators; and hobbyists (see full economic analysis). The rule will also facilitate the Agency's coordination with other Federal and State agencies in regulating the movement and environmental release of plant pests and biological control organisms.

In our final regulatory flexibility analysis, we have used the best data available to examine potential impacts of the rule to achieve desired policy goals. We have determined that the rule will result in net cost savings for affected entities, nearly all of which are small. We cannot certify that this rule will have no significant impacts on small entities, but have found no evidence that it would have such impacts. We did not receive information during the public comment period on the proposed rule that would alter this assessment. Given the expected net cost savings, we have not identified steps that would minimize these impacts.

Executive Order 12372

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

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Executive Order 13175

In accordance with Executive Order 13175, APHIS has consulted with Tribal Government officials. A Tribal summary impact statement has been prepared that includes a summary of Tribal officials' concerns and of how APHIS has attempted to address them. The Tribal summary impact statement may be viewed on the *Regulations.gov* website.[32]

National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the processes in this final rule, we have prepared a final environmental impact statement (EIS). The final EIS is based on a draft EIS, which we drafted after soliciting public comment through a notice in the **Federal Register** to help us delineate the scope of the issues and alternatives to be analyzed. The final EIS responds to public comments, analyzes each alternative and its environmental consequences, if any, and provides APHIS' preferred alternative. The EIS was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the final EIS are available on the *Regulations.gov* website (see footnote 2 in this document for a link to *Regulations.gov*) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule, which were filed under 0579–0187, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the **Federal Register** providing notice of what action we plan to take.

[32] See footnote 2.

E-Government Act Compliance

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

**List of Subjects**

*7 CFR Part 318*

Cotton, Cottonseeds, Fruits, Guam, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

*7 CFR Part 319*

Coffee, Cotton, Fruits, Honey, Imports, Plants for planting, Plant diseases and pests, Plants, Quarantine, Reporting and recordkeeping requirements, Rice, Sugar, Vegetables.

*7 CFR Part 330*

Customs duties and inspection, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

*7 CFR Part 352*

Customs duties and inspection, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR parts 318, 319, 330, and 352 as follows:

## PART 318—STATE OF HAWAII AND TERRITORIES QUARANTINE NOTICES

■ 1. The authority citation for part 318 continues to read as follows:

**Authority:** 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

■ 2. In § 318.60, paragraph (c) introductory text is revised to read as follows:

### § 318.60 Notice of quarantine.

* * * * *

(c) Sand (other than clean ocean sand), soil, or earth around the roots of plants must not be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any

person from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State, Territory, or District of the United States: *Provided,* That the prohibitions in this paragraph (c) do not apply to the movement of soil from Hawaii, Puerto Rico, and the Virgin Islands other than that soil around the roots of plants; movement of soil that is not around the roots of plants is regulated under part 330 of this chapter: *Provided further,* That the prohibitions of this section shall not apply to the movement of such products in either direction between Puerto Rico and the Virgin Islands of the United States: *Provided further,* That such prohibitions shall not prohibit the movement of such products by the United States Department of Agriculture for scientific or experimental purposes, nor prohibit the movement of sand, soil, or earth around the roots of plants which are carried, for ornamental purposes, on vessels into mainland ports of the United States and which are not intended to be landed thereat, when evidence is presented satisfactory to the inspector of the Plant Protection and Quarantine Programs of the Department of Agriculture that such sand, soil, or earth has been so processed or is of such nature that no pest risk is involved, or that the plants with sand, soil, or earth around them are maintained on board under such safeguards as will preclude pest escape: *And provided further,* That such prohibitions shall not prohibit the movement of plant cuttings or plants that have been—

* * * * *

## PART 319—FOREIGN QUARANTINE NOTICES

■ 3. The authority citation for part 319 continues to read as follows:

**Authority:** 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 4. In § 319.37–10, paragraph (b) is revised to read as follows:

### § 319.37–10 Growing media.

* * * * *

(b)(1) Plants for planting from Canada may be imported in any growing medium, except as restricted in the Plants for Planting Manual. Restrictions on growing media for specific types of plants for planting imported from Canada will be added, changed, or removed in accordance with § 319.37–20.

(2) Plants for planting from an area of Canada regulated by the national plant protection organization of Canada for a soil-borne plant pest may only be imported in an approved growing medium if the phytosanitary certificate accompanying it contains an additional declaration that the plant was grown in a manner to prevent infestation by that soil-borne plant pest.

* * * * *

■ 5. Section 319.69 is amended as follows:

■ a. By revising paragraph (a) introductory text;

■ b. By revising paragraph (a)(8);

■ c. By removing the undesignated paragraph after paragraph (a)(8); and

■ d. By removing paragraph (b)(4).

The revisions read as follows:

### § 319.69 Notice of quarantine.

(a) The following plants and plant products, when used as packing materials, are prohibited entry into the United States from the countries and localities named in this paragraph (a), exceptions to the prohibitions may be authorized in the case of specific materials which have been so prepared, manufactured, or processed that in the judgment of the inspector no pest risk is involved in their entry:

* * * * *

(8) Organic decaying vegetative matter from all countries, unless the matter is expressly authorized to be used as a packing material in this part. Exceptions to the prohibitions in paragraphs (a)(1) through (7) of this section may be authorized in the case of specific materials which has been so prepared, manufactured, or processed that in the judgment of the inspector no pest risk is involved in their entry.

* * * * *

### § 319.69–1 [Amended]

■ 6. Section 319.69–1 is amended by removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

■ 7. Section 319.69–5 is revised to read as follows:

### § 319.69–5 Types of organic decaying vegetative matter authorized for packing.

The following types of organic decaying vegetative matter are authorized as safe for packing:

(a) Peat;

(b) Peat moss; and

(c) Osmunda fiber.

■ 8. Section 319.77–2 is amended as follows:

■ a. In paragraph (e), by removing the word ''and'';

■ b. By revising paragraph (f); and

■ c. By adding paragraph (g).

The revision and addition read as follows:

### § 319.77–2 Regulated articles.

* * * * *

(f) Mobile homes and their associated equipment; and

(g) Stone and quarry products.

■ 9. Section 319.77–4 is amended by adding paragraph (d) to read as follows:

### § 319.77–4 Conditions for the importation of regulated articles.

* * * * *

(d) *Stone and quarry products.* Stone and quarry products originating in a Canadian infested area may be imported into the United States only if they are destined for an infested area of the United States and will not be moved through any noninfested areas of the United States, and may be moved through the United States if they are moved only through infested areas.

* * * * *

## PART 330—FEDERAL PLANT PEST REGULATIONS; GENERAL; PLANT PESTS, BIOLOGICAL CONTROL ORGANISMS, AND ASSOCIATED ARTICLES; GARBAGE

■ 10. The authority citation for part 330 continues to read as follows:

**Authority:** 7 U.S.C. 1633, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

■ 11. The heading of part 330 is revised to read as set forth above.

■ 12. Section 330.100 is revised to read as follows:

### § 330.100 Definitions.

The following terms, when used in this part, shall be construed, respectively, to mean:

*Administrative instructions.* Published documents relating to the enforcement of this part, and issued under authority thereof by the Administrator.

*Administrator.* The Administrator of the Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture, or any employee of APHIS to whom authority has been delegated to act in the Administrator's stead.

*Animal and Plant Health Inspection Service (APHIS).* The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

*Article.* Any material or tangible object, including a living organism, that could harbor living plant pests or noxious weeds. The term includes associated articles such as soil and packaging.

*Biocontainment facility.* A physical structure or portion thereof, constructed and maintained in order to contain plant pests, biological control organisms, or associated articles.

*Biological control organism.* Any enemy, antagonist, or competitor used to control a plant pest or noxious weed.

*Continental United States.* The contiguous 48 States, Alaska, and the District of Columbia.

*Continued curation permit.* A permit issued prior to the expiration date for an import permit or interstate movement permit in order for a permittee to continue research or other actions listed on the import or interstate movement permit. Continued curation permits do not allow acquisition of additional organisms for research and other authorized activities and only address retention of existing organisms for authorized uses.

*Department.* The United States Department of Agriculture.

*Deputy Administrator.* The Deputy Administrator of the Plant Protection and Quarantine Programs or any employee of the Plant Protection and Quarantine Programs delegated to act in his or her stead.

*Enter (entry).* To move into, or the act of movement into, the commerce of the United States.

*EPA.* The Environmental Protection Agency of the United States.

*Export (exportation).* To move from, or the act of movement from, the United States to any place outside the United States.

*Garbage.* That material designated as ''garbage'' in § 330.400(b).

*Hand-carry.* Importation of an organism that remains in one's personal possession and in close proximity to one's person.

*Import (importation).* To move into, or the act of movement into, the territorial limits of the United States.

*Inspector.* Any individual authorized by the Administrator of APHIS or the Commissioner of U.S. Customs and Border Protection to enforce the regulations in this part.

*Interstate movement.* Movement from one State into or through any other State; or movement within the District of Columbia, Guam, the U.S. Virgin Islands, or any other territory or possession of the United States.

*Living.* Viable or potentially viable.

*Means of conveyance.* Any personal or public property used for or intended for use for the movement of any other property. This specifically includes, but is not limited to, automobiles, trucks, railway cars, aircraft, boats, freight containers, and other means of transportation.

*Move (moved and movement).* To carry, enter, import, mail, ship, or transport; to aid, abet, cause, or induce the carrying, entering, importing, mailing, shipping, or transporting; to offer to carry, enter, import, mail, ship, or transport; to receive to carry, enter, import, mail, ship, or transport; to release into the environment, or to allow any of those activities.

*Noxious weed.* Any plant or plant product that can directly or indirectly injure or cause damage to crops (including nursery stock or plant products), livestock, poultry, or other interests of agriculture, irrigation, navigation, the natural resources of the United States, the public health, or the environment.

*Owner.* The owner, or his or her agent, having possession of a plant pest, biological control organism, associated article, or any other means of conveyance, products, or article subject to the regulations in this part.

*Permit.* A written authorization, including by electronic methods, by the Administrator to move plant pests, biological control organisms, or associated articles under conditions prescribed by the Administrator.

*Permittee.* The person to whom APHIS has issued a permit in accordance with this part and who must comply with the provisions of the permit and the regulations in this part.

*Person.* Any individual, partnership, corporation, association, joint venture, or other legal entity.

*Plant.* Any plant (including any plant part) for or capable of propagation including trees, tissue cultures, plantlet cultures, pollen, shrubs, vines, cuttings, grafts, scions, buds, bulbs, roots, and seeds.

*Plant pest.* Any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, nonhuman animal, parasitic plant, bacterium, fungus, virus or viroid, infectious agent or other pathogen, or any article similar to or allied with any of the foregoing.

*Plant product.* Any flower, fruit, vegetable, root, bulb, seed, or other plant part that is not included in the definition of plant; or any manufactured or processed plant or plant part.

*Plant Protection and Quarantine Programs.* The Plant Protection and Quarantine Programs of the Animal and Plant Inspection Health Service.

*Pure culture.* A single species of invertebrate originating only from an identified/described population and free of disease and parasites, cryptic species, soil and other biological material except host material and substrate as APHIS deems appropriate. Examples of identified/described population are those originating from a specific laboratory colony or field collection from a specified geographic area, such as an entire country or States or provinces of a country.

*Regulated garbage.* That material designated as regulated garbage in § 330.400(c) and (d).

*Responsible individual.* One or more individuals who a permittee designates to appropriately oversee and control the staff, facilities, and/or site(s) at the location(s) specified on the permit as the ultimate destination of the plant pest, biological control organism, or associated article, to ensure compliance with the permit conditions during all phases of the activities being performed with the regulated articles authorized under a permit issued in accordance with this part for the movement or curation of a plant pest, biological control organism, or associated article. For the duration of the permit, the individual(s) must serve as a primary contact for communication with APHIS. The permittee may designate him or herself as the responsible individual. The responsible individual(s) must be at least 18 years of age and to be able meet with and provide information to an APHIS representative within a reasonable time frame. In accordance with section 7734 of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the act, omission, or failure of any responsible individual will also be deemed the act, omission, or failure of a permittee.

*Secure shipment.* Shipment of a regulated plant pest, biological control organism, or associated article in a container or a means of conveyance of sufficient strength and integrity to prevent leakage of contents and to withstand shocks, pressure changes, and other conditions incident to ordinary handling in transportation.

*Shelf-stable.* The condition achieved in a product, by application of heat, alone or in combination with other ingredients and/or other treatments, of being rendered free of microorganisms capable of growing in the product at nonrefrigerated conditions (over 50 °F or 10 °C).

*Soil.* The unconsolidated material from the earth's surface that consists of rock and mineral particles and that supports or is capable of supporting biotic communities.

*State.* Any of the States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the U.S. Virgin Islands, and all other territories or possessions of the United States.

*Sterilization (sterile, sterilized).* A chemical or physical process that results in the death of all living organisms on or within the article subject to the

process. Examples include, but are not limited to, autoclaving and incineration.

*Taxon (taxa).* Any recognized grouping or rank within the biological nomenclature of organisms, such as class, order, family, genus, species, subspecies, pathovar, biotype, race, forma specialis, or cultivar.

*Transit.* Movement from and to a foreign destination through the United States.

*United States.* All of the States and territories.

*U.S. Customs and Border Protection (CBP).* U.S. Customs and Border Protection within the Department of Homeland Security.

**§ 330.105 [Amended]**

■ 13. In § 330.105, paragraph (a) is amended by removing the citation ''§ 330.300'' both times it appears and adding the words ''this part'' in its place.

■ 14. Subpart B is revised to read as follows:

**Subpart B—Movement of Plant Pests, Biological Control Organisms, and Associated Articles**

Sec.
330.200 Scope and general restrictions.
330.201 Permit requirements.
330.202 Biological control organisms.
330.203 Soil.
330.204 Exceptions to permitting requirements for the importation or interstate movement of certain plant pests.
330.205 Hand-carry of plant pests, biological control organisms, and soil.
330.206 Packaging requirements.
330.207 Costs and charges.

## Subpart B—Movement of Plant Pests, Biological Control Organisms, and Associated Articles

**§ 330.200 Scope and general restrictions.**

(a) *Restrictions.* No person shall import, move interstate, transit, or release into the environment plant pests, biological control organisms, or associated articles, unless the importation, interstate movement, transit, or release into the environment of the plant pests, biological control organisms, or associated articles is:

(1) Authorized under an import, interstate movement, or continued curation permit issued in accordance with § 330.201; or

(2) Authorized in accordance with other APHIS regulations in this chapter; or

(3) Explicitly granted an exception from permitting requirements in this subpart; or

(4) Authorized under a general permit issued by the Administrator.

(b) *Plant pests regulated by this subpart.* For the purposes of this subpart, APHIS will consider an organism to be a plant pest if the organism directly or indirectly injures, causes damage to, or causes disease in a plant or plant product, or if the organism is an unknown risk to plants or plant products, but is similar to an organism known to directly or indirectly injure, cause damage to, or cause disease in a plant or plant product.

(c) *Biological control organisms regulated by this subpart.* For the purposes of this subpart, biological control organisms include:

(1) Invertebrate predators and parasites (parasitoids) used to control invertebrate plant pests;

(2) Invertebrate competitors used to control invertebrate plant pests;

(3) Invertebrate herbivores used to control noxious weeds;

(4) Microbial pathogens used to control invertebrate plant pests;

(5) Microbial pathogens used to control noxious weeds;

(6) Microbial parasites used to control plant pathogens; and

(7) Any other types of biological control organisms, as determined by APHIS.

(d) *Biological control organisms not regulated by this subpart.* Paragraph (c) of this section notwithstanding, biological control organism-containing products that are currently under an EPA experimental use permit, a Federal Insecticide Fungicide and Rodenticide Act (FIFRA) section 18 emergency exemption, or that are currently registered with EPA as a microbial pesticide product, are not regulated under this subpart. Additionally, biological control organisms that are pesticides that are not registered with EPA, but are being transferred, sold, or distributed in accordance with EPA's regulations in 40 CFR 152.30, are not regulated under this subpart for their interstate movement or importation. However, an importer desiring to import a shipment of biological control organisms subject to FIFRA must submit to the EPA Administrator a Notice of Arrival of Pesticides and Devices as required by CBP regulations at 19 CFR 12.112. The Administrator will provide notification to the importer indicating the disposition to be made of shipment upon its entry into the customs territory of the United States.

**§ 330.201 Permit requirements.**

(a) *Types of permits.* APHIS issues import permits, interstate movement permits, continued curation permits, and transit permits for plant pests, biological control organisms, and associated articles.[1]

(1) *Import permit.* Import permits are issued to persons for secure shipment from outside the United States into the territorial limits of the United States. When import permits are issued to individuals, these individuals must be 18 years of age or older and have a physical address within the United States. When import permits are issued to corporate persons, these persons must maintain an address or business office in the United States with one or more designated individuals for service of process.

(2) *Interstate movement permit.* Interstate movement permits are issued to persons for secure shipment from any State into or through any other State. When interstate movement permits are issued to individuals, these individuals must be 18 years of age or older and have a physical address within the United States. When interstate movement permits are issued to corporate persons, these persons must maintain an address or business office in the United States with a designated individual for service of process.

(3) *Continued curation permits.* Continued curation permits are issued in conjunction with and prior to the expiration date for an import permit or interstate movement permit, in order for the permittee to continue the actions listed on the import permit or interstate movement permit. When continued curation permits are issued to individuals, these individuals must be 18 years of age or older and have a physical address within the United States. When continued curation permits are issued to corporate persons, these persons must maintain an address or business office in the United States with one or more designated individuals for service of process.

(4) *Transit permits.* Transit permits are issued for secure shipments through the United States. Transit permits are issued in accordance with part 352 of this chapter.

(b) *Applying for a permit.* Permit applications must be submitted by the applicant in writing or electronically through one of the means listed at *http://www.aphis.usda.gov/plant_health/permits/index.shtml* in advance of the action(s) proposed on the permit application.

[1] Persons contemplating the shipment of plant pests, biological control organisms, or associated articles to places outside the United States should make arrangements directly, or through the recipient, with the country of destination for the export of the plant pests, biological control organisms, or associated articles into that country.

(c) *Completing a permit application.* A permit application must be complete before APHIS will evaluate it in order to determine whether to issue the permit requested. To facilitate timely processing, applications should be submitted as far in advance as possible of the date of the proposed permit activity. Guidance regarding how to complete a permit application, including guidance specific to the various information blocks on the application, is available at *http://www.aphis.usda.gov/plant_health/permits/index.shtml.*

(d) *APHIS action on permit applications.* APHIS will review the information on the application to determine whether it is complete. In order to consider an application complete, APHIS may request additional information that it determines to be necessary in order to assess the risk to plants and plant products that may be posed by the actions proposed on the application. When it is determined that an application is complete, APHIS will commence review of the information provided.

(1) *State or Tribal consultation and comment; consultation with other individuals.* APHIS will share a copy of the permit application, and the proposed permit conditions, with the appropriate State or Tribal regulatory officials, and may share the application and the proposed conditions with other persons or groups to provide comment.

(2) *Initial assessment of sites and facilities.* Prior to issuance of a permit, APHIS will assess all sites and facilities that are listed on the permit application, including private residences, biocontainment facilities, and field locations where the organism [2] or associated article will be held or released. As part of this assessment, all sites and facilities are subject to inspection. All facilities must be determined by APHIS to be constructed and maintained in a manner that prevents the dissemination or dispersal of plant pests, biological control organisms, or associated articles from the facility. The applicant must provide all information requested by APHIS regarding this assessment, and must allow all inspections requested by APHIS during normal business hours (8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays). Failure to do so constitutes grounds for denial of the permit application.

(3) *Issuance of a permit.* APHIS may issue a permit to an applicant if APHIS concludes that the actions indicated in the permit application are not likely to introduce or disseminate a plant pest, biological control organism, or noxious weed within the United States in a manner that exposes plants and plant products to unacceptable risk. Issuance will occur as follows:

(i) Prior to issuing the permit, APHIS will notify the applicant in writing or electronically of all proposed permit conditions. The applicant must agree in writing or electronically that he or she, and all his or her employees, agents, and/or officers, will comply with all permit conditions and all provisions of this subpart. If the organism or associated article will be contained in a private residence, the applicant must state in this agreement that he or she authorizes APHIS to conduct unscheduled assessments of the residence during normal business hours if a permit is issued.

(ii) APHIS will issue the permit after it receives and reviews the applicant's agreement. The permit will be valid for no more than 3 years. During that period, the permittee must abide by all permitting conditions, and the use of the organism or associated article must conform to the intended use on the permit. Moreover, the use of organisms derived from a regulated parent organism during that period must conform to the intended use specified on the permit for the parent organism.

(iii) All activities carried out under the permit must cease on or before the expiration date for the permit, unless, prior to that expiration date, the permittee has submitted a new permit application and a new permit has been issued to authorize continuation of those actions.

(iv) At any point following issuance of a permit but prior to its expiration date, an inspector may conduct unscheduled assessments of the site or facility in which the organisms or associated articles are held, to determine whether they are constructed and are being maintained in a manner that prevents the dissemination of organisms or associated articles from the site or facility. The permittee must allow all such assessments requested by APHIS during normal business hours. Failure to allow such assessments constitutes grounds for revocation of the permit.

(4) *Denial of a permit application.* APHIS may deny an application for a permit if:

(i) APHIS concludes that the actions proposed in the permit application would present an unacceptable risk to plants and plant products because of the introduction or dissemination of a plant pest, biological control organism, or noxious weed within the United States; or

(ii) The actions proposed in the permit application would be adverse to the conduct of an APHIS eradication, suppression, control, or regulatory program; or

(iii) A State or Tribal executive official, or a State or Tribal plant protection official authorized to do so, objects to the movement in writing and provides specific, detailed information that there is a risk the movement will result in the dissemination of a plant pest or noxious weed into the State, APHIS evaluates the information and agrees, and APHIS determines that such plant pest or noxious weed risk cannot be adequately addressed or mitigated; or

(iv) The applicant does not agree to observe all of the proposed permit conditions that APHIS has determined are necessary to mitigate identified risks; or

(v) The applicant does not provide information requested by APHIS as part of an assessment of sites or facilities, or does not allow APHIS to inspect sites or facilities associated with the actions listed on the permit application; or

(vi) APHIS determines that the applicant has not followed prior permit conditions, or has not adequately demonstrated that they can meet the requirements for the current application. Factors that may contribute to such a determination include, but are not limited to:

(A) The applicant, or a partnership, firm, corporation, or other legal entity in which the applicant has a substantial interest, financial or otherwise, has not complied with any permit that was previously issued by APHIS.

(B) Issuing the permit would circumvent any order denying or revoking a previous permit issued by APHIS.

(C) The applicant has previously failed to comply with any APHIS regulation.

(D) The applicant has previously failed to comply with any other Federal, State, or local laws, regulations, or instructions pertaining to plant health.

(E) The applicant has previously failed to comply with the laws or regulations of a national plant protection organization or equivalent body, as these pertain to plant health.

(F) APHIS has determined that the applicant has made false or fraudulent statements or provided false or fraudulent records to APHIS.

(G) The applicant has been convicted or has pled *nolo contendere* to any crime involving fraud, bribery, extortion, or any other crime involving a lack of integrity.

[2] Includes biological control organisms and plant pests.

(5) *Withdrawal of a permit application.* Any permit application may be withdrawn at the request of the applicant. If the applicant wishes to withdraw a permit application, he or she must provide the request in writing to APHIS. APHIS will provide written notification to the applicant as promptly as circumstances allow regarding reception of the request and withdrawal of the application.

(6) *Cancellation of a permit.* Any permit that has been issued may be canceled at the request of the permittee. If a permittee wishes a permit to be canceled, he or she must provide the request in writing to APHIS–PPQ. Whenever a permit is canceled, APHIS will notify the permittee in writing regarding such cancellation.

(7) *Revocation of a permit.* APHIS may revoke a permit for any of the following reasons:

(i) After issuing the permit, APHIS obtains information that would have otherwise provided grounds for it to deny the permit application; or

(ii) APHIS determines that the actions undertaken under the permit have resulted in or are likely to result in the introduction into or dissemination within the United States of a plant pest or noxious weed in a manner that presents an unacceptable risk to plants or plant products; or

(iii) APHIS determines that the permittee, or any employee, agent, or officer of the permittee, has failed to comply with a provision of the permit or the regulations under which the permit was issued.

(8) *Amendment of permits*—(i) *Amendment at permittee's request.* If a permittee determines that circumstances have changed since the permit was initially issued and wishes the permit to be amended accordingly, he or she must request the amendment, either through APHIS' online portal for permit applications, or by contacting APHIS directly via phone or email. The permittee may have to provide supporting information justifying the amendment. APHIS will review the amendment request, and may amend the permit if only minor changes are necessary. Requests for more substantive changes may require a new permit application. Prior to issuance of an amended permit, the permittee may be required to agree in writing that he or she, and his or her employees, agents, and/or officers will comply with the amended permit and conditions.

(ii) *Amendment initiated by APHIS.* APHIS may amend any permit and its conditions at any time, upon determining that the amendment is needed to address newly identified considerations concerning the risks presented by the organism or the activities being conducted under the permit. APHIS may also amend a permit at any time to ensure that the permit conditions are consistent with all of the requirements of this part. As soon as circumstances allow, APHIS will notify the permittee of the amendment to the permit and the reason(s) for it. Depending on the nature of the amendment, the permittee may have to agree in writing or electronically that he or she, and his or her employees, agents, and/or officers, will comply with the permit and conditions as amended before APHIS will issue the amended permit. If APHIS requests such an agreement, and the permittee does not agree in writing that he or she, and his or her employees, agents, and/or officers, will comply with the amended permit and conditions, the existing permit will be revoked.

(9) *Suspension of permitted actions.* APHIS may suspend authorization of actions authorized under a permit if it identifies new factors that cause it to reevaluate the risk associated with those actions. APHIS will notify the permittee in writing of this suspension explaining the reasons for it and stating the actions for which APHIS is suspending authorization. Depending on the results of APHIS' evaluation, APHIS will subsequently contact the permittee to remove the suspension, amend the permit, or revoke the permit.

(10) *Appeals.* Any person whose application has been denied, whose permit has been revoked or amended, or whose authorization for actions authorized under a permit has been suspended, may appeal the decision in writing to the Administrator within 10 business days after receiving the written notification of the denial, revocation, amendment, or suspension. The appeal shall state all of the facts and reasons upon which the person relies to show that the application was wrongfully denied, permit revoked or amended, or authorization for actions under a permit suspended. The Administrator shall grant or deny the appeal, stating the reasons for the decision as promptly as circumstances allow.

(Approved by the Office of Management and Budget Under Control Number 0579–0054)

**§ 330.202 Biological control organisms.**

(a) *General conditions for importation, interstate movement, and release of biological control organisms.* Except as provided in paragraph (b) of this section, no biological control organism regulated under this subpart may be imported, moved in interstate commerce, or released into the environment unless a permit has been issued in accordance with § 330.201 authorizing such importation, interstate movement, or release, and the organism is moved or released in accordance with this permit and the regulations in this subpart. The regulations in 40 CFR parts 1500 through 1508, part 1b of this title, and part 372 of this chapter may require APHIS to request additional information from an applicant regarding the proposed release of a biological control organism as part of its evaluation of a permit application. Further information regarding the types of information that may be requested, and the manner in which this information will be evaluated, is found at *http://www.aphis.usda.gov/plant_health/permits/index.shtml.*

(b) *Exceptions from permitting requirements for certain biological control organisms.* APHIS has determined that certain biological control organisms have become established throughout their geographical or ecological range in the continental United States, such that the additional release of pure cultures derived from field populations of taxa of such organisms into the environment of the continental United States will present no additional plant pest risk (direct or indirect) to plants or plant products. Lists of biological control organisms for invertebrate plant pests and for weeds are maintained on the PPQ Permits and Certifications website at *https://www.aphis.usda.gov/aphis/resources/permits.*

(1) *Importation and interstate movement of listed organisms.* Pure cultures of organisms excepted from permit requirements, unless otherwise indicated, may be imported or moved interstate within the continental United States without further restriction under this subpart.

(2) *Release of listed organisms.* Pure cultures of organisms on the list may be released into the environment of the continental United States without further restriction under this subpart.

(c) *Additions to the list of organisms granted exceptions from permitting requirements for their importation, interstate movement, or release.* Any person may request that APHIS add a biological control organism to the list referred to in paragraph (b) of this section by submitting a petition to APHIS via email to *pest.permits@usda.gov* or through any means listed at *http://www.aphis.usda.gov/plant_health/permits/index.shtml.* The petition must include the following information:

(1) Evidence indicating that the organism is indigenous to the

continental United States throughout its geographical or ecological range, or evidence indicating that the organism has produced self-replicating populations within the continental United States for an amount of time sufficient, based on the organism's taxon, to consider that taxon established throughout its geographical or ecological range in the continental United States; or

(2) Evidence that the organism's geographical or ecological range includes an extremely limited area of or none of the continental United States based on its inability to maintain year to year self-replicating populations despite repeated introductions over a sufficient range of time; or

(3) The petition would include evidence that the organism cannot establish anywhere in the continental United States; or

(4) Results from a field study where data were collected from representative habitats occupied by the biological control organism. Studies must include sampling for any direct or indirect impacts on target and non-target hosts of the biological control organism in these habitats. Supporting scientific literature must be cited; or

(5) Any other data, including published scientific reports, that suggest that subsequent releases of the organism into the environment of the continental United States will present no additional plant pest risk (direct or indirect) to plants or plant products.

(d) *APHIS review of petitions*—(1) *Evaluation.* APHIS will review the petition to determine whether it is complete. If APHIS determines that the petition is complete, it will conduct an evaluation of the petition to determine whether there is sufficient evidence that the organism exists throughout its geographical or ecological range in the continental United States and that subsequent releases of pure cultures of field populations of the organism into the environment of the continental United States will present no additional plant pest risk (direct or indirect) to plants or plant products.

(2) *Notice of availability of the petition.* If APHIS determines that there is sufficient evidence that the organism exists throughout its geographical or ecological range in the continental United States and that subsequent releases of pure cultures of the organism into the environment of the continental United States will present no additional plant pest risk to plants or plant products, APHIS will publish a notice in the **Federal Register** announcing the availability of the petition and requesting public comment on that document.

(3) *Notice of determination.* (i) If no comments are received, or if the comments received do not lead APHIS to reconsider its determination, APHIS will publish in the **Federal Register** a subsequent notice describing the comments received and stating that the organism has been added to the list referred to in paragraph (b) of this section.

(ii) If the comments received lead APHIS to reconsider its determination, APHIS will publish in the **Federal Register** a subsequent notice describing the comments received and stating its reasons for determining not to add the organism to the list referred to in paragraph (b) of this section.

(e) *Removal of organisms from the list of exempt organisms.* Any biological control organism may be removed from the list referred to in paragraph (b) of this section if information emerges that would have otherwise led APHIS to deny the petition to add the organism to the list. Whenever an organism is removed from the list, APHIS will publish a notice in the **Federal Register** announcing that action and the basis for it.

(Approved by the Office of Management and Budget under control number 0579–0187)

**§ 330.203 Soil.**

(a) *Requirements.* The Administrator has determined that, unless it has been sterilized, soil is an associated article, and is thus subject to the permitting requirements of § 330.201, unless its movement:

(1) Is regulated pursuant to other APHIS regulations in this chapter; or

(2) Does not require such a permit under the provisions of paragraph (b)(1) or (c)(1) of this section.

(b) *Conditions governing the importation of soil*—(1) *Permit.* Except as provided in § 319.37–10 of this chapter and except for soil imported from areas of Canada not regulated by the national plant protection organization of Canada for a soil-borne plant pest, soil may be imported into the United States if an import permit has been issued in accordance with § 330.201 and if the soil is imported under the conditions specified on the permit.

(2) *Additional conditions for the importation of soil via hand-carry.* In addition to the condition of paragraph (b)(1) of this section, soil may be hand-carried into the United States only if the importation meets the conditions of § 330.205.

(3) *Additional conditions for the importation of soil intended for the extraction of plant pests.* In addition to the condition of paragraph (b)(1) of this section, soil may be imported into the United States for the extraction of plant pests if the soil will be imported directly to an APHIS-approved biocontainment facility.

(4) *Additional conditions for the importation of soil contaminated with plant pests and intended for disposal.* In addition to the condition of paragraph (b)(1) of this section, soil may be imported into the United States for the disposal of plant pests if the soil will be imported directly to an APHIS-approved disposal facility.

(5) *Exemptions.* The articles listed in this paragraph (b) are not soil, provided that they are free of organic material. Therefore, they may be imported into the United States without an import permit issued in accordance with § 330.201, unless the Administrator has issued an order stating otherwise. All such articles are, however, subject to inspection at the port of first arrival, subsequent reinspection at other locations, other remedial measures deemed necessary by an inspector to remove any risk the items pose of disseminating plant pests or noxious weeds, and any other restrictions of this chapter:

(i) Consolidated material derived from any strata or substrata of the earth. Examples include clay (laterites, bentonite, china clay, attapulgite, tierrafino), talc, chalk, slate, iron ore, and gravel.

(ii) Sediment, mud, or rock from saltwater bodies of water.

(iii) Cosmetic mud and other commercial mud products.

(iv) Stones, rocks, and quarry products.

(c) *Conditions governing the interstate movement of soil*—(1) *General conditions.* Except for soil moved in accordance with paragraphs (c)(2) through (5) of this section, soil may be moved interstate within the United States without prior issuance of an interstate movement permit in accordance with § 330.201 or further restriction under this subpart. However, all soil moved interstate is subject to any movement restrictions and remedial measures specified for such movement referenced in part 301 of this chapter.

(2) *Conditions for the interstate movement within the continental United States of soil intended for the extraction of plant pests.* Soil may be moved in interstate commerce within the continental United States with the intent of extracting plant pests, only if an interstate movement permit has been issued for its movement in accordance with § 330.201, and if the soil will be

moved directly to an APHIS-approved biocontainment facility in a secure manner that prevents its dissemination into the outside environment.

(3) *Conditions for the interstate movement within the continental United States of soil infested with plant pests and intended for disposal.* Soil may be moved in interstate commerce within the continental United States with the intent of disposing of plant pests, only if an interstate movement permit has been issued for its movement in accordance with § 330.201, and the soil will be moved directly to an APHIS-approved disposal facility in a secure manner that prevents its dissemination into the outside environment.

(4) *Conditions for the interstate movement of soil samples from an area quarantined in accordance with part 301 of this chapter for chemical or compositional testing or analysis.* Soil samples may be moved for chemical or compositional testing or analysis from an area that is quarantined in accordance with part 301 of this chapter without prior issuance of an interstate movement permit in accordance with § 330.201 or further restriction under this chapter, provided that the soil is moved to a laboratory that has entered into and is operating under a compliance agreement with APHIS, is abiding by all terms and conditions of the compliance agreement, and is approved by APHIS to test and/or analyze such samples.

(5) *Additional conditions for interstate movement of soil to, from, or between Hawaii, the territories, and the continental United States.* In addition to all general conditions for interstate movement of soil, soil may be moved in interstate commerce to, from, or between Hawaii, the territories, and the continental United States only if an interstate movement permit has been issued for its movement in accordance with § 330.201. In addition, soil moved to, from, or between Hawaii, the territories, and the continental United States with the intent of extracting plant pests is subject to the conditions of paragraph (c)(2) of this section, while soil infested with plant pests and intended for disposal is subject to the conditions of paragraph (c)(3) of this section.

(d) *Conditions governing the transit of soil through the United States.* Soil may transit through the United States only if a transit permit has been issued for its movement in accordance with part 352 of this chapter.

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**§ 330.204 Exceptions to permitting requirements for the importation or interstate movement of certain plant pests.**

Pursuant to section 7711 of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Administrator has determined that certain plant pests may be moved interstate within the continental United States without restriction. The list of all such plant pests is on the PPQ Permits and Certifications website at *https://www.aphis.usda.gov/aphis/resources/permits.* Plant pests listed as being excepted from permitting requirements, unless otherwise indicated, may be moved interstate within the continental United States without further restriction under this subpart.

(a) *Categories.* In order to be included on the list, a plant pest must:

(1) Be from field populations or lab cultures derived from field populations of a taxon that is established throughout its entire geographical or ecological range within the continental United States; or

(2) Be commercially available and raised under the regulatory purview of other Federal agencies.

(b) *Petition process to add plant pests to the list*—(1) *Petition.* Any person may petition APHIS to have an additional plant pest added to the list of plant pests that may be imported into or moved in interstate commerce within the continental United States without restriction. To submit a petition, the person must provide, in writing, information supporting the placement of a particular pest in one of the categories listed in paragraph (a) of this section.

(i) Information that the plant pest belongs to a taxon that is established throughout its entire geographical or ecological range within the United States must include scientific literature, unpublished studies, or data regarding:

(A) The biology of the plant pest, including characteristics that allow it to be identified, known hosts, and virulence;

(B) The geographical or ecological range of the plant pest within the continental United States; and

(C) The areas of the continental United States within which the plant pest is established.

(ii) Information that the plant pest is commercially available and raised under the regulatory purview of another Federal agency must include a citation to the relevant law, regulation, or order under which the agency exercises such oversight.

(2) *APHIS review.* APHIS will review the information contained in the petition to determine whether it is complete. In order to consider the petition complete, APHIS may require additional information to determine whether the plant pest belongs to one of the categories listed in paragraph (a) of this section. When it is determined that the information is complete, APHIS will commence review of the petition.

(3) *Action on petitions to add pests.* (i) If, after review of the petition, APHIS determines there is insufficient evidence that the plant pest belongs to one of the categories listed in paragraph (a) of this section, APHIS will deny the petition, and notify the petitioner in writing regarding this denial.

(ii) If, after review of the petition, APHIS determines that the plant pest belongs to one of the categories in paragraph (a) of this section, APHIS will publish a notice in the **Federal Register** that announces the availability of the petition and any supporting documentation to the public, that states that APHIS intends to add the plant pest to the list of plant pests that may be imported into or moved in interstate commerce within the continental United States without restriction, and that requests public comment. If no comments are received on the notice, or if, based on the comments received, APHIS determines that its conclusions regarding the petition have not been affected, APHIS will publish in the **Federal Register** a subsequent notice stating that the plant pest has been added to the list.

(c) *Petition process to have plant pests removed from the list*—(1) *Petition.* Any person may petition to have a plant pest removed from the list of plant pests that may be imported into or moved interstate within the continental United States without restriction by writing to APHIS. The petition must contain independently verifiable information demonstrating that APHIS' initial determination that the plant pest belongs to one of the categories in paragraph (a) of the section should be changed, or that additional information is now available that would have caused us to change the initial decision.

(2) *APHIS review.* APHIS will review the information contained in the petition to determine whether it is complete. In order to consider the petition complete, APHIS may require additional information supporting the petitioner's claim. When it is determined that the information is complete, APHIS will commence review of the petition.

(3) *APHIS action on petitions to remove pests.* (i) If, after review of the petition, APHIS determines that there is insufficient evidence to suggest that its initial determination should be changed, APHIS will deny the petition,

and notify the petitioner in writing regarding this denial.

(ii) If, after review of the petition, APHIS determines that there is a sufficient basis to suggest that its initial determination should be changed, APHIS will publish a notice in the **Federal Register** that announces the availability of the petition, and that requests public comment regarding removing the plant pest from the list of plant pests that may be imported into or move in interstate commerce within the continental United States without restriction. If no comments are received on the notice, or if the comments received do not affect APHIS' conclusions regarding the petition, APHIS will publish a subsequent notice in the **Federal Register** stating that the plant pest has been removed from the list.

(d) *APHIS-initiated changes to the list.* (1) APHIS may propose to add a plant pest to or remove a pest from the list of plant pests that may be imported into or move in interstate commerce within the continental United States without restriction, if it determines that there is sufficient evidence that the plant pest belongs to one of the categories listed in paragraph (a) of the section, or if evidence emerges that leads APHIS to reconsider its initial determination that the plant pest was or was not in one of the categories listed in paragraph (a) of this section. APHIS will publish a notice in the **Federal Register** announcing this proposed addition or removal, making available any supporting documentation that it prepares, and requesting public comment.

(2) If no comments are received on the notice or if the comments received do not affect the conclusions of the notice, APHIS will publish a subsequent notice in the **Federal Register** stating that the plant pest has been added to or removed from the list.

(Approved by the Office of Management and Budget Under Control Number 0579–0187)

### § 330.205 Hand-carry of plant pests, biological control organisms, and soil.

Plant pests, biological control organisms, and soil may be hand-carried into the United States only in accordance with the provisions of this section.

(a) *Authorization to hand-carry*—(1) *Application for a permit; specification of ''hand-carry'' as proposed method of movement.* A person must apply for an import permit for the plant pest, biological control organism, or soil, in accordance with § 330.201, and specify hand-carry of the organism or article as the method of proposed movement.

(2) *Specification of individual who will hand-carry.* The application must also specify the individual or individuals who will hand-carry the plant pest, biological control organism, or soil into the United States. If APHIS authorizes this individual or these individuals to hand-carry, the authorization may not be transferred to nor actions under it performed by individuals other than those identified on the permit application.

(b) *Notification of intent to hand-carry.* After the permittee has obtained an import permit but no less than 20 days prior to movement, the permittee must provide APHIS through APHIS' online portal for permit applications or by fax with the names of the designated hand carrier, or carriers, assigned to that movement. Additional conditions for hand-carry are available on the APHIS website.[3]

(c) *Denial, amendment, or cancellation of authorization to hand-carry.* APHIS may deny a request to hand-carry, or amend or cancel any hand-carry authorization at any time, if it deems such action necessary to prevent the introduction or dissemination of plant pests or noxious weeds within the United States.

(d) *Appeal of denial, amendment, or cancellation.* Any person whose request to hand-carry has been denied, or whose authorization to hand-carry has been amended or canceled, may appeal the decision in writing to APHIS.

### § 330.206 Packaging requirements.

Shipments in which plant pests, biological control organisms, and associated articles are imported into, moved in interstate commerce, or transited through the United States must meet the general packaging requirements of this section, as well as all specific packaging requirements on the permit itself.

(a) *Packaging requirements.* All shipments must consist of an outer shipping container and at least two packages within the container. Both the container and inner packages must be securely sealed to prevent the dissemination of the enclosed plant pests, biological control organisms, or associated articles.

(1) *Outer shipping container.* The outer shipping container must be rigid, impenetrable and durable enough to remain closed and structurally intact in the event of dropping, lateral impact with other objects, and other shocks incidental to handling.

(2) *Inner packages.* The innermost package or packages within the shipping container must contain all of the organisms or articles that will be moved. As a safeguard, the innermost package must be placed within another, larger package. All packages within the shipping container must be constructed or safeguarded so that they will remain sealed and structurally intact throughout transit. The packages must be able to withstand changes in pressure, temperature, and other climatic conditions incidental to shipment.

(b) *Packing material.* Packing materials may be placed in the inner packages or shipping container for such purposes as cushioning, stabilizing, water absorption or retention, nourishment or substrate for regulated articles, etc. Packing material for importation must be free of plant pests, noxious weeds, biological control organisms not listed on the permit or associated articles, and, as such, must be new, or must have been sterilized or disinfected prior to reuse. Packing material must be suited for the enclosed organism or article, as well as any medium in which the organism or article will be maintained.

(c) *Requirements following receipt of the shipment at the point of destination.* (1) Packing material, including media and substrates, must be destroyed by incineration, be decontaminated using autoclaving or another approved method, or otherwise be disposed of in a manner specified in the permit itself.

(2) Shipping containers may be reused, provided that the container has not been contaminated with plant pests, noxious weeds, biological control organisms, or associated articles. Shipping containers that have been in contact with or otherwise contaminated with any of these items must be sufficiently sterilized or disinfected prior to reuse, or otherwise disposed of.

(d) *Costs.* Permittees who fail to meet the requirements of this section may be held responsible for all costs incident to inspection, rerouting, repackaging, subsequent movement, and any treatments.

### § 330.207 Cost and charges.

The inspection services of APHIS inspectors during regularly assigned hours of duty and at the usual places of duty will be furnished without cost. APHIS will not be responsible for any costs or charges incidental to inspections or compliance with the provisions of this subpart, other than for the inspection services of the inspector.

[3] *https://www.aphis.usda.gov/plant_health/permits/organism/downloads/HandCarryPolicy.pdf.*

## Subpart C—[Removed and Reserved]

■ 15. Subpart C, consisting of §§ 330.300 through 330.302, is removed and reserved.

## PART 352—PLANT QUARANTINE SAFEGUARD REGULATIONS

■ 16. The authority citation for part 352 continues to read as follows:

**Authority:** 7 U.S.C. 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

■ 17. In § 352.1, paragraph (b) is amended as follows:

■ a. By adding, in alphabetical order, a definition for *Biological control organism;*

■ b. By revising the definition for *Deputy Administrator;*

■ c. By adding, in alphabetical order, a definition for *Noxious weed;* and

■ d. By revising the definitions for *Person, Plant pest,* and *Soil.*

The additions and revisions read as follows:

### § 352.1 Definitions.

* * * * *

(b) * * *

*Biological control organism.* Any enemy, antagonist, or competitor used to control a plant pest or noxious weed.

* * * * *

*Deputy Administrator.* The Deputy Administrator of the Plant Protection and Quarantine Programs or any employee of the Plant Protection and Quarantine Programs delegated to act in his or her stead.

* * * * *

*Noxious weed.* Any plant or plant product that can directly or indirectly injure or cause damage to crops (including nursery stock or plant products), livestock, poultry, or other interests of agriculture, irrigation, navigation, the natural resources of the United States, the public health, or the environment.

* * * * *

*Person.* Any individual, partnership, corporation, association, joint venture, society, or other legal entity.

*Plant pest.* Any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, nonhuman animal, parasitic plant, bacterium, fungus, virus or viroid, infectious agent or other pathogen, or any article similar to or allied with any of the plant pests listed in this definition.

* * * * *

*Soil.* The unconsolidated material from the earth's surface that consists of rock and mineral particles and that supports or is capable of supporting biotic communities.

* * * * *

### § 352.2 [Amended]

■ 18. In § 352.2, paragraph (a) introductory text, the first sentence is amended by removing the words ''plant pests, noxious weeds, soil,'' and adding the words ''plant pests, biological control organisms, noxious weeds, soil,'' in their place and removing the words ''contain plant pests or noxious weeds'' and adding the words ''contain plant pests, biological control organisms, or noxious weeds'' in their place.

### § 352.3 [Amended]

■ 19. Section 352.3 is amended as follows:

■ a. In paragraphs (a) and (b), by adding the words ''biological control organisms,'' after the words ''plant pests,'' each time they appear; and

■ b. In paragraph (d), by removing the words ''plant pest or noxious weed dissemination'' and adding the words ''plant pest, noxious weed, or biological control organism dissemination'' in their place.

### § 352.5 [Amended]

■ 20. Section 352.5 is amended by adding the words ''biological control organisms,'' after the words ''plant pests,'' each time they appear.

### § 352.6 [Amended]

■ 21. Section 352.6 is amended as follows:

■ a. In paragraph (b), by removing footnote 2 and removing the words ''as specified by'' and adding the words ''in accordance with'' in their place; and

■ b. In paragraph (c), by removing the reference to footnote 2 and removing the citation ''§ 330.300(b)'' and adding the citation ''§ 330.203'' in its place.

■ c. In paragraph (e), by removing the words ''plant pest or noxious weed dissemination'' both times they appear and adding the words ''plant pest, noxious weed, or biological control organism dissemination'' in their place.

### § 352.9 [Amended]

■ 22. Section 352.9 is amended by adding the words ''biological control organisms,'' after the words ''plant pests,''.

### § 352.10 [Amended]

■ 23. Section 352.10 is amended as follows:

■ a. By redesignating footnote 3 as footnote 2;

■ b. In paragraph (b)(1), by removing the words ''plant pest or noxious weed dissemination'' each time they appear and adding the words ''plant pest, noxious weed, or biological control organism dissemination'' in their place and adding the words ''biological control organisms,'' after the words ''Prohibited or restricted plants, plant products, plant pests,'';

■ c. In paragraph (b)(2) introductory text, by removing the words ''plant pest or noxious weed dissemination'' both times they appear and adding the words ''plant pest, noxious weed, or biological control organism dissemination'' in their place;

■ d. In paragraph (b)(2)(i), by adding the words ''or biological control organisms'' after the words ''plant pests'';

■ e. In paragraph (b)(2)(ii), by adding the words ''biological control organisms,'' after the words ''plant pests,'';

■ f. In paragraph (b)(2)(iii), by removing the words ''plant pest or noxious weed dissemination'' and adding the words ''plant pest, noxious weed, or biological control organism dissemination'' in their place;

■ g. In paragraph (b)(2)(iv), by removing the words ''plant pest dispersal'' and adding the words ''plant pest or biological control organism dispersal'' in their place; and

■ h. In paragraph (c)(1), by removing the words ''plant pest or noxious weed dissemination'' and adding the words ''plant pest, noxious weed, or biological control organism dissemination'' in their place.

### § 352.11 [Amended]

■ 24. In § 352.11, paragraph (a)(1) is amended by removing the words ''plant pests, noxious weeds, and soil'' and adding the words ''plant pests, biological control organisms, noxious weeds, soil, or other products or articles'' in their place.

**§ 352.13 [Amended]**

■ 25. Section 352.13 is amended by removing the words ''plant pests, noxious weeds, and soil'' and adding the words ''plant pests, biological control organisms, noxious weeds, soil, or other products or articles'' in their place and removing the word ''parts'' and adding the word ''part'' in its place.

**§ 352.15 [Amended]**

■ 26. Section 352.15 is amended by removing the words ''plant pest or noxious weed dissemination'' and adding the words ''plant pest, noxious weed, or biological control organism dissemination'' in their place.

**§ 352.30 [Amended]**

■ 27. Section 352.30 is amended by redesignating footnotes 4 and 5 as footnotes 3 and 4, respectively.

Done in Washington, DC, this 17th day of June 2019.

**Lorren E.S. Walker,**

*Acting Under Secretary for Marketing and Regulatory Programs.*

[FR Doc. 2019–13246 Filed 6–21–19; 8:45 am]

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Part III

## Department of Labor

29 CFR Part 29

Apprenticeship Programs, Labor Standards for Registration, Amendment of Regulations; Proposed Rule

**DEPARTMENT OF LABOR**

**29 CFR Part 29**

**RIN 1205–AB85**

## Apprenticeship Programs, Labor Standards for Registration, Amendment of Regulations

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** To address America's skills gap and expand the apprenticeship model to new industries, the U.S. Department of Labor proposes a rule under the National Apprenticeship Act (NAA) to establish a process for recognizing Standards Recognition Entities (SREs), which will in turn recognize Industry-Recognized Apprenticeship Programs (Industry Programs). This proposed rule describes what entities may become SREs; outlines the responsibilities and requirements for SREs, as well as the hallmarks of the high-quality apprenticeship programs they will recognize; and sets out how the Administrator of the Office of Apprenticeship will interact with SREs. The proposed rule also describes how Industry Programs would operate in parallel with the existing registered apprenticeship system. The Department believes its industry-led, market-driven approach provides the flexibility necessary to scale the apprenticeship model where it is needed most and helps address America's skills gap.

**DATES:** Comments must be submitted, in writing, on or before August 26, 2019.

**ADDRESSES:** You may submit comments, identified by Regulatory Information Number (RIN) 1205–AB85, by one of the following methods:

*Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the website instructions for submitting comments.

*Mail and hand delivery/courier:* Written comments, disk, and CD–ROM submissions may be mailed to Adele Gagliardi, Administrator, Office of Policy Development and Research, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5641, Washington, DC 20210.

*Instructions:* Label all submissions with ''RIN 1205–AB85.''

Please submit your comments by only one method. Please be advised that the Department will post all comments received that relate to this NPRM on *http://www.regulations.gov* without making any change to the comments or redacting any information. The *http://www.regulations.gov* website is the Federal e-rulemaking portal, and all comments posted there are available and accessible to the public. Therefore, the Department recommends that commenters remove personal information such as Social Security Numbers, personal addresses, telephone numbers, and email addresses included in their comments, as such information may become easily available to the public via the *http://www.regulations.gov* website. It is the responsibility of the commenter to safeguard personal information.

Also, please note that, due to security concerns, postal mail delivery in Washington, DC may be delayed. Therefore, the Department encourages the public to submit comments on *http://www.regulations.gov.*

*Docket:* All comments on this proposed rule will be available on the *http://www.regulations.gov* website, and can be found using RIN 1205–AB85. The Department also will make all the comments it receives available for public inspection by appointment during normal business hours at the above address. If you need assistance to review the comments, the Department will provide appropriate aids, such as readers or print magnifiers. The Department will make copies of this proposed rule available, upon request, in large print and electronic file on computer disk. To schedule an appointment to review the comments and/or obtain the proposed rule in an alternative format, contact the Office of Policy Development and Research at (202) 693–3700 (this is not a toll-free number). You may also contact this office at the address listed below.

*Comments under the Paperwork Reduction Act:* In addition to filing comments on any aspect of this rule with the Agency, interested parties may file comments on the information collections contained in or supporting this proposed rule with the Office of Management and Budget (OMB). This opportunity is limited to the information collections that must also be approved under the Paperwork Reduction Act, and the period to submit comments to OMB expires 30 days after the date this proposed rule is published in the **Federal Register**. Please submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the Agency using the same method as for any other comments on the rule.

**FOR FURTHER INFORMATION CONTACT:** Adele Gagliardi, Administrator, Office of Policy Development and Research, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5641, Washington, DC 20210; telephone (202) 693–3700 (this is not a toll-free number).

Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

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### I. Background

The National Apprenticeship Act (NAA), 29 U.S.C. 50, authorizes the Secretary of Labor ''to bring together employers and labor for the formulation of programs of apprenticeship.'' The U.S. Department of Labor (the Department or DOL) proposes doing so through a new program recognizing Standards Recognition Entities (SREs) of Industry-Recognized Apprenticeship Programs (Industry Programs). This new program is intended to harness industry expertise and leadership to meet the United States' skills needs in the twenty-first century.

The Department has primarily implemented the NAA by registering individual apprenticeship programs and apprentices. Registration occurs either directly or through recognized State apprenticeship agencies. This effort has been key to the development of apprenticeships in certain contexts. However, this model has failed to scale

in other industries or regions, even as the modern economy has required millions of skilled workers in new areas. One source identified nearly 50 occupations as ripe for apprenticeship expansion.[1] In addition, registered apprenticeship programs have prepared only approximately 0.3 percent of the United States workforce.[2]

Compounding this low rate of apprenticeship participation is a persistent and serious long-term challenge to American economic leadership: A significant mismatch between the occupational competencies that businesses need and the job skills of aspiring workers. There were over 7.3 million job openings in the United States at the end of 2018,[3] and some openings go unfilled because there are not enough workers with needed skills.[4] This pervasive skills gap has posed a serious impediment to job growth and productivity throughout the economy.

In light of these challenges, in January 2017, days after President Trump entered office, the President and his Administration began promoting apprenticeships to address this skills gap. Steps taken included studying how apprenticeships work overseas, and ways that those approaches could be suited for and scaled in the United States.

In June 2017, President Trump signed an Executive Order on Expanding Apprenticeships in America, which outlined an expanded vision for apprenticeship.[5] Section 8 of the Order directed the Secretary to establish a Task Force on Apprenticeship, bringing together industry and workforce leaders to consider how to promote apprenticeships especially in sectors where they are insufficient. The Task Force met formally five times, with its Subcommittees working concurrently on numerous aspects of apprenticeship expansion.[6] As part of the proceedings, the Task Force Subcommittees developed and submitted formal white papers summarizing their findings.[7] Over the course of several meetings, each Subcommittee presented its recommendations to the full Task Force, which discussed and then voted on whether to include those recommendations in a final report to be transmitted to the President.

On May 10, 2018, the Task Force transmitted its final report to President Trump. Among other points, the report indicated that Industry Programs could provide a new and flexible alternative to supplement—but not supplant—the registered apprenticeship program. The report explained:

> Industry-recognized apprenticeships provide a *new* apprenticeship pathway that gives industry organizations and employers more autonomy and authority to identify high quality apprenticeship programs and opportunities.[8]

In July 2018, and consistent with the Task Force's recommendations and findings, the Department issued Training and Employment Notice 3–18, ''Creating Industry-Recognized Apprenticeship Programs to Expand Opportunity in America'' (TEN). This TEN outlined the contours of the Industry-Recognized Apprenticeship Program and the hallmarks of high-quality apprenticeship programs. The TEN described a system in which industry-leading organizations and educational institutions, and other third parties would recognize and oversee high-quality apprenticeship programs that provide workers credentials needed to obtain family-sustaining jobs.

On September 20, 2018, the Department published a draft form (the form) foreshadowed by the TEN in the **Federal Register** for a 60-day notice and comment period.[9] This initial notice and comment period on the form ended on November 19, 2018. Through this process, the Department received the benefit of public comments. The Department reviewed the comments received, and subsequently revised the form.

On December 27, 2018, the Department provided the form for OMB's review and approval.[10] Through this step, the public had another opportunity for providing comments on the form.[11] The comment period on the form ended on January 28, 2019, and resulted in several additional comments. The form will permit entities interested in applying to the upcoming program to engage with DOL about their standards-setting and recognition processes. The Department will use the form as a mechanism to enable entities to seek a favorable determination about whether the information provided is consistent with the criteria outlined in the TEN.

The proposed permanent application form (the application) for this rule is discussed in the Paperwork Reduction Act section of this NPRM, with the application's anticipated components referenced below and reflected in Appendix A of this proposed rule. The application as proposed reflects the form associated with the TEN. To the extent the application approved for the final rule differs from the form associated with the TEN, the final rule may provide that entities that have received a favorable determination under the TEN should provide updated information to the Department.

In this rulemaking, the Department proposes to add a new subpart to 29 CFR part 29. Current part 29 would become subpart A and would retain the existing rules for registered apprenticeship, with conforming edits to account for the addition of subpart B. Subpart B would formally establish a process for organizations to apply to become DOL-recognized SREs of Industry Programs. Once recognized, SREs would work with employers and other entities to establish, recognize, and monitor high-quality Industry Programs that provide apprentices industry-recognized credentials. The proposed rule includes measures and guidelines to facilitate the recognition of these high-quality Industry Programs. The Department also solicits comments regarding how the establishment of Industry Programs can best support the

[1] Joseph B. Fuller & Matthew Sigelman, ''Room to Grow: Identifying New Frontiers for Apprenticeships,'' Harvard Bus. Sch., Nov. 2017, 7–8, *https://www.hbs.edu/managing-the-future-of-work/Documents/room-to-grow.pdf.*

[2] *See* Task Force on Apprenticeship Expansion, ''Final Report to the President of the United States,'' May 10, 2018, 17.

[3] U.S. Dep't of Labor, Bureau of Labor Statistics, ''Job Openings and Labor Turnover—December 2018,'' Feb. 12, 2019, *https://www.bls.gov/news.release/archives/jolts_02122019.pdf.*

[4] *See, e.g.,* Task Force on Apprenticeship Expansion, ''Final Report to the President of the United States,'' May 10, 2018, 16 (citing 2018 report from National Federation of Independent Business); Business Roundtable, ''Closing the Skills Gap,'' *https://www.businessroundtable.org/policy-perspectives/education-workforce/closing-the-skills-gap* (last visited April 16, 2019); *cf.* Deloitte and the Manufacturing Institute, ''2018 Deloitte and The Manufacturing Institute Skills Gap and Future of Work Study,'' 2 (estimating manufacturing jobs that may go unfilled due to skills gap), *https://documents.deloitte.com/insights/2018DeloitteSkillsGapFoWManufacturing.*

[5] Executive Order 13801, Expanding Apprenticeships in America, 82 FR 28229 (June 15, 2017).

[6] *See Task Force on Apprenticeship Expansion,* U.S. Dep't of Labor, *https://www.dol.gov/apprenticeship/task-force.htm* (last visited Mar. 30, 2019).

[7] *See Subcommittee White Papers,* Task Force on Apprenticeship Expansion, Apr. 4, 2018, *https://www.dol.gov/apprenticeship/docs/20180410-Subcommittee-White-Papers.pdf.*

[8] Task Force on Apprenticeship Expansion, ''Final Report to the President of the United States,'' May 10, 2018, 34 (emphasis added); *cf. id.* at 36 (describing negative impact of the ''simultaneous reform and launch'' of the registered apprenticeship and Industry-Recognized Apprenticeship systems).

[9] *See* Notice, 83 FR 47643–02 (Sept. 20, 2018). Under the Paperwork Reduction Act, a Federal agency generally cannot conduct or sponsor a collection of information, even a voluntary one, unless the Office of Management and Budget has approved the information collection request. That request must display a currently valid OMB Control Number.

[10] *See* Notice, 83 FR 66757–01 (Dec. 27, 2018) (30-day notice).

[11] *Id.*

adoption of apprenticeship opportunities in industries lacking such opportunities rather than sectors that have effective and substantially widespread registered apprenticeship programs.

The Department believes this rule's industry-led, market-driven approach would provide the flexibility necessary to scale the apprenticeship model in new areas and address America's skills gap through high-quality apprenticeships. The following is a section-by-section analysis of this proposed rule.

## II. Section-by-Section Discussion of the Proposed Rule

### *A. Subpart A—Registered Apprenticeship Programs*

Proposed revisions to part 29 account for its division into two subparts. Each subpart would address a different type of apprenticeship program. Accordingly, revisions to current part 29—now proposed subpart A—would make conforming edits to account for subpart B, and for how SREs and Industry Programs establish a new, distinct pathway for the expansion of apprenticeships.

The first type of conforming edit in subpart A replaces prior references to part 29 with references to subpart A. Second, the proposed rule adds the phrase ''for the purpose of this subpart'' before definitions provided in subpart A, § 29.2. This revision clarifies the distinction between the current registered apprenticeship system and what new subpart B establishes.

### *B. Subpart B—Standards Recognition Entities of Industry-Recognized Apprenticeship Programs*

#### Standards Recognition Entities, Industry Programs, Administrator, and Apprentices (§ 29.20)

Section 29.20 explains that subpart B establishes a new apprenticeship pathway distinct from the registered program described in subpart A. This section also defines several terms used in proposed subpart B.

Paragraph (a) defines an SRE as an entity that is qualified to recognize apprenticeship programs as Industry Programs under § 29.21, and which the Department has recognized as an SRE. Section 29.21, explained below, describes how the Administrator will evaluate the qualifications of a prospective SRE.

Paragraph (a)(1) contains an illustrative list of types of entities that can act as SREs. A consortium of these entities could also apply to become an SRE. By not limiting the types of entities that may receive recognition, the Department intends to encourage the creation of SREs over a broad range of industries and occupational areas. The Department seeks comment on this approach.

Paragraph (b) defines Industry Programs as high-quality apprenticeship programs, wherein an individual obtains workplace-relevant knowledge and progressively-advancing skills, that include a paid-work component and an educational or instructional component, and that result in an industry-recognized credential. These requirements are explained in more detail in the explanation of the requirements of § 29.22(a)(4)(i)–(ix) (detailing hallmarks of high-quality programs, such as mentorship).

Under paragraph (b), an Industry Program is developed or delivered by entities such as trade and industry groups, companies, non-profit organizations, educational institutions, unions, or joint labor-management organizations. For example, an association of software developers could work to develop an Industry Program that provides a credential to apprentices learning to code, or equips those apprentices to sit for an exam as part of their participation in the program. A group of companies that sell or distribute pharmaceuticals could establish an Industry Program that equips apprentices with the knowledge and competencies needed to be proficient in that industry. An individual company could also develop Industry Program(s) to attract new workers and equip them with the skills necessary for proficiency in a particular occupational area. The Department believes that this approach provides flexibility needed for entities to tailor Industry Programs to their own needs. At the same time, paragraph (b) makes clear that an Industry Program is one that has been recognized as a high-quality program by an SRE. These hallmarks of high-quality are further outlined in § 29.22(a)(4), explained below.

Paragraph (c) clarifies that the Administrator is the Administrator of the Department of Labor's Office of Apprenticeship, or any person specifically designated by the Administrator. Paragraph (d) defines an apprentice as an individual participating in an Industry Program.

#### Becoming a Standards Recognition Entity (§ 29.21)

Section 29.21 outlines the process and standards by which an entity may apply for Departmental recognition as an SRE. The Department proposes recognizing entities that show that they have the expertise to set standards for high-quality programs that result in industry-recognized credentials and equip apprentices with competencies needed for proficiency in specified industries or occupational areas, as would be demonstrated through components of the entity's proposed application (described in more detail below). For example, an entity might seek to set standards for automobile or aircraft manufacturing, or for an occupational area such as information security analytics.

Paragraph (a) states that an entity must submit an application to the Administrator to become an SRE. As explained below, the Department will use responses to specific questions in the application to determine whether an entity is qualified to serve as an SRE. This determination will depend in large part on the scope and nature of the Industry Programs the SRE seeks to recognize. Accordingly, the application would give the Department information about the industry(ies) and occupational area(s) for which programs would prepare apprentices.

The Department anticipates that a panel of reviewers, comprised of staff from the Office of Apprenticeship and contractors from the credentialing industry, would evaluate the application based upon the criteria outlined in § 29.21(b), as explained below. In addition to information about program scope, the application would require detailed responses concerning the applicant's capabilities and experience; its proposed approach to quality-control of Industry Programs; and its approach to ensuring the integrity of its own recognition process. These components of the anticipated application will provide the Department with information necessary to determine whether the prospective SRE is equipped to recognize and maintain recognition of high-quality Industry Programs.

Paragraph (b) describes the criteria for qualification as an SRE. Paragraph (b)(1) states that an entity must demonstrate that it has the expertise to set standards through a consensus-based process involving industry experts, for the requisite training, structure, and curricula for apprenticeship programs in the industry(ies) or occupational area(s) in which it seeks to be an SRE. An SRE should demonstrate sufficient support and input from industry authorities to give confidence in the SRE's expertise, given where its Industry Programs will operate. This standards-setting process will, in turn, inform and guide the Industry Programs the SRE recognizes,

so that those programs impart the competencies and skills apprentices need to operate successfully and independently in their industries and/or occupational areas. The Department anticipates that this standards-setting process will account for the needs of employers in the region or regions where Industry Programs operate, and seeks comment on whether additional or alternative requirements are necessary to further align the skills apprentices receive to the needs of employers in any given region.

The Department also notes that it anticipates many or all SREs will set competency-based standards for training, structure, and curricula. This means the standards would reflect the skills and knowledge needed for proficiency, rather than focusing on what could be superficial requirements unrelated to industry-essential skills (for example, seat time requirements unconnected to skills development). The Department seeks comment on this assumption.

To assess whether the prospective SRE is qualified under (b)(1), the Department would review specific components of the anticipated application for SREs in light of the scope of the Industry Programs the SRE would recognize. In particular, prospective SREs would detail their capability for obtaining input, support, and consensus from industry experts concerning the standards that the SRE would set. The Department anticipates that the applicant would provide information about the industry experts that would help set standards, as well as the process by which they would do so. The Department would then evaluate this information in light of the industry(ies) and occupation(s) relating to Industry Programs the SRE would recognize. For example, a prospective SRE that seeks to recognize programs in two industries and across fifteen occupational areas would need to demonstrate a breadth of expertise beyond the showing of an entity seeking to recognize programs preparing apprentices for a single occupation. Such expertise could be established by listing the number of experts involved, detailing experience those experts have in the relevant industry(ies) or occupational area(s), and the process by which such experts would help the SRE set standards. The Department expects this to be a fact-intensive inquiry, and seeks comment on its proposed approach.

Although the Department anticipates that most SREs will recognize programs developed in specific industries, some occupations within programs may exist across industries. Identical standards may be appropriate for such cross-industry occupations. In such circumstances, an SRE with expertise across a number of industries could appropriately establish standards on a cross-industry basis.

Paragraph (b)(1)(i) clarifies that the requirements in § 29.21(b)(1) may be met by an SRE's past or current standard-setting activities, and need only engender new activity if necessary to comply with this rule. This paragraph accounts for how some prospective SREs already have standards-setting processes that reflect well-established, industry-, occupation-, and employer-specific needs and skills. Rather than requiring those prospective SREs to alter their approach to setting standards, the Department seeks to clarify its expectation that such entities' processes for setting standards likely meet the requirements of this proposed rule, and need only change if necessary to comply with it.

Paragraph (b)(2) states that the entity must demonstrate that it has the capacity and quality assurance processes and procedures sufficient to comply with paragraph § 29.22(a)(4). That paragraph authorizes SREs to recognize and maintain recognition of only high-quality apprenticeship programs. Whether a prospective SRE has the capacity and quality assurance processes and procedures necessary to comply with § 29.22(a)(4) will be a fact-intensive inquiry and will again depend in large part upon the scope of the apprenticeship programs the SRE seeks to recognize.

The Department anticipates that information from specific components of prospective SREs' applications would inform its assessment under paragraph (b)(2). Prospective SREs would provide information concerning their qualifications to evaluate training, structure, and curricula. Prospective SREs would also detail their experience, if any, assessing apprenticeship programs, as well as the qualifications and competencies of individuals that would be directly involved in the recognition process. All of this would help the Department evaluate the prospective SRE's capacity for recognizing and monitoring Industry Programs. Just as the background and experience of industry experts involved in standards-setting should be commensurate with the scope of the programs to be recognized, the qualifications and/or experience of the SRE and individuals within it that will recognize and monitor Industry Programs should be commensurate with the nature of those programs.

Relatedly, the anticipated application would request detailed information concerning the SRE's specific policies and procedures for evaluating and monitoring Industry Programs to ensure they reflect the hallmarks of high-quality, detailed in § 29.22(a)(4)(i)–(ix). For example, an SRE would need to explain its approach to verifying that its Industry Programs would provide or lead to an industry-recognized credential (per proposed § 29.22(a)(4)(iv)). These quality-assurance policies and procedures would, again, generally need to match the nature of the programs to be recognized. For example, the quality-assurance processes necessary to evaluate an Industry Program's classroom or related instruction for apprentices in a new and rapidly-evolving field would likely require more frequent assessment than what would be needed for an established and relatively-static field.

Paragraph (b)(3) notes that prospective SREs must demonstrate they meet the other requirements of the subpart, which are outlined in § 29.22. The Department anticipates that this showing would be made by responding to questions in the application about the applicant's policy and process that correspond with the relevant paragraphs in § 29.22. For example, an entity would need to explain its policies and processes for addressing potential conflicts of interests, pursuant to § 29.22(e)–(f).

Paragraph (c) indicates that the Administrator will recognize an entity as an SRE if the applicant is qualified, and also provides additional details about recognition. This paragraph is intended to ensure that the Administrator undertakes adequate review of SREs, both over time and following any significant changes that would affect the SRE's qualification or ability to recognize Industry Programs.

Paragraph (c)(1) indicates that SREs will be recognized for 5 years. An SRE must reapply if it seeks continued recognition after that time, using the same application form it submitted initially. The Department proposes a 5-year time period to be consistent with best practices in the credentialing industry. The Department also believes this period of time is appropriate for ensuring that already-recognized SREs continue to account for the development and evolution in competencies needed within the industries and occupations to which their standards relate. The Department seeks comment on this proposed period of time. Paragraph (c)(2) requires that an SRE notify the Administrator and provide all related

material information if it makes a substantive change to its recognition processes, or any major change that could affect the operations of the recognition program. Such changes would include involvement in lawsuits that materially affect the SRE; changes in legal status; or any other change that materially affects the SRE's ability to function in its recognition capacity.

Likewise, the SRE must notify the Administrator and provide all related material information if it seeks to recognize apprenticeship programs in new industries or occupational areas; an SRE should notify the Administrator before the SRE begins to evaluate such apprenticeship programs for recognition under the Industry-Recognized Apprenticeship Program. Notice must be provided within 30 days of the circumstances described in paragraphs (2)(i)–(ii). In light of the information received, the Administrator will evaluate whether the SRE remains qualified for recognition under paragraph (b).

Paragraph (d) outlines requirements for any denials of recognition after receipt of a prospective SRE's application. The Administrator's denial must be in writing and must state the reason(s) for denial. The notice must specify the remedies that must be undertaken prior to consideration of a resubmitted application. The Department anticipates that it would be clear from a resubmitted application whether remedies were undertaken. Notice must be sent by certified mail, return receipt requested, and must state that a request for administrative review may be made within 30 calendar days of receipt of the notice. The notice must also explain how to submit a request for administrative review.

Given the detailed nature of the questions on the anticipated application form—and by requiring that the Administrator's notice of a denial specify the remedies needed before submission of a new application—the Department expects that any applicants initially denied will fully understand why. Entities are strongly encouraged to reapply after remedying the deficiencies the Department identifies.

An applicant can request administrative review if it believes the Department improperly denied recognition.

Responsibilities and Requirements of Standards Recognition Entities (§ 29.22)

Proposed § 29.22 describes the responsibilities and requirements of SREs. Paragraph (a) describes various obligations of SREs, and also what characterizes high-quality apprenticeship programs.

Paragraph (a)(1) states that SREs must recognize or reject apprenticeship programs seeking recognition in a timely manner. The Department has not proposed a specific time limit because it expects that the time for an apprenticeship program to earn recognition will vary based on the industry or occupational focus of the program, the complexity of the program's training, the extent of related instruction, or other factors. A ''timely'' manner, however, means that requests for recognition should be processed within a reasonable period of time under the circumstances.

Paragraph (a)(2) requires an SRE to inform the Administrator within 30 days when it has recognized a new Industry Program or terminated the recognition of an existing Industry Program. This information will assist the Administrator in fulfilling obligations under § 29.24 (Publication of SREs and Industry Programs).

Paragraph (a)(3) requires SREs to provide any information the Administrator is expressly authorized to collect under this subpart. This provision will enable the Administrator to request information, as needed, to ascertain SREs' conformity to the subpart under § 29.23 (Quality Assurance).

Paragraph (a)(4) states that SREs may only recognize and maintain the recognition of Industry Programs that meet certain requirements, which the Department believes are hallmarks of high-quality programs. In general, these hallmarks of quality include paid work; work-based learning; mentorship; education and instruction; obtaining industry-recognized credentials; safety and supervision; and adherence to equal employment opportunity obligations.

Rather than seeking to register or manage each Industry Program itself, the Department believes that empowering SREs to recognize Industry Programs that reflect these hallmarks of high quality is the best approach to promoting the apprenticeship model and Industry Programs. The Department anticipates that SREs' standards and quality control will also best account for and reflect industry or occupation-specific factors. This approach provides the flexibility necessary to encourage more apprenticeships in new industry sectors, while at the same time ensuring that apprenticeships reflect the hallmarks of high quality.

Paragraph (a)(4)(i) states that an Industry Program must train apprentices for employment in jobs that require specialized knowledge and experience and involve the performance of complex tasks. The Department seeks comment on these requirements, and on whether it should set a minimum skill level or competency baseline for Industry Programs akin to the registered apprenticeship program's requirement that apprentices gain ''manual, mechanical, or technical'' skills.

On the one hand, the Department believes apprenticeships should expand broadly to those industries that do not have them, and the Department has concern that limiting apprenticeships to certain types of jobs or skills may limit the expansion of the apprenticeship model. Flexibility is vital for the apprenticeship model to expand to and remain useful in new industries and occupational areas. This is especially true given the rapid evolution of certain industries and occupations.

At the same time, Industry Programs should be high-quality, not programs that train apprentices for roles requiring only general knowledge and minimal or no skill. An apprenticeship that ''provides'' apprentices with training about general skills and knowledge that most or all potential workers would already have—and could immediately deploy upon being hired—is not what is envisioned as a high-quality apprenticeship. The Department seeks to ensure that Industry Programs reflect the high-quality training that, traditionally, has been core to the apprenticeship model, and accordingly seeks comment on these provisions, and on whether it should further delineate the nature of the competencies and types of jobs that should be associated with Industry Programs.

Paragraph (a)(4)(ii) states that an Industry Program must have structured work experiences, and appropriate classroom or related instruction adequate to help apprentices achieve proficiency and earn credential(s). The Department believes that the exact form these work experiences and instruction take will vary, depending on the nature of the industry or occupation and the means of classroom or other related instruction the Industry Program uses for developing progressively advancing skills.

The Industry Program must involve an employment relationship and provide apprentices industry-essential skills. This ensures that apprentices earn as they learn their industry or occupation, and that they are equipped with the competencies necessary to operate as independent workers in their fields. The Department anticipates that SREs' standards will identify what specific knowledge and skills are industry-essential, based on industry

and occupation. The Department seeks comment on whether the phrase ''progressively advancing'' is suitable for delineating the industry-essential skills Industry Programs should provide.

Paragraph (a)(4)(iii) requires Industry Programs to ensure that, where appropriate, apprentices receive credit for prior knowledge and experience relevant to the instruction of the Industry Program. Such credit should be reflected in progress through the program itself, or in any coursework, as appropriate. The Department believes that recognition of prior knowledge and experience will have numerous economic benefits for employers and workers. Workers with the appropriate prior knowledge and experience, and who can pass necessary skills assessments, certification exams or other processes required for credentialing, should receive appropriate credit. This approach bypasses what may be needless prerequisites for those workers, such as a certain number of hours of ''seat time'' or classes that are effectively perfunctory. Fast-tracking these workers allows them to more rapidly work and be paid fully, and directs workers to the most productive application of their knowledge and skill. This approach has the added benefit of bypassing steps that could otherwise delay addressing the skills gap many industries face.

Paragraph (a)(4)(iv) requires Industry Programs provide apprentices with a credential(s) that is industry-recognized during participation in or upon completion of the program. A credential can be a certificate, certification, degree, electronic badge, or other indicator that attests to an individual's acquisition of skills or knowledge. An industry-recognized credential is one that is created by the industry that will use the credential, based on the particular competencies required within the specific industry. For example, such a credential could consist of a certificate of completion or a certification issued by the SRE of an Industry Program. In industries in which generally-accepted credentials already exist, or will be issued by industry organizations or personnel certification bodies, Industry Programs should result in receipt of one or more of these existing credentials, or qualify an apprentice to sit for relevant certification exams. Such credentials may be provided during participation in, or upon completion of, an Industry Program. For example, in order to successfully complete an Industry Program, an apprentice may be required to pass an exam relevant to his or her field.

The Department anticipates that Industry Programs will generally provide credentials that are portable. Again, an Industry Program may require apprentices to pass a nationally-recognized exam that measures competencies necessary for the apprentice's occupation. That exam would enhance the apprentice's mobility, and enhancing workforce mobility is a vital part of effectively addressing the skills gap.

At the same time, the Department recognizes that providing a credential that is ''portable'' in the broadest sense may not always be possible. For example, an Industry Program that equips apprentices to receive a certain type of license—one that reflects industry-essential skills—likely cannot ensure that the license will remain valid if the apprentice moves to a new State. As a general matter, though, by requiring that credentials reflect the specific competencies needed for any given occupation, the Department anticipates that Industry Programs will generally enhance apprentices' mobility.

The Department also anticipates that Industry Programs will evaluate and adjust their programming to ensure that the credentials associated with the program have demonstrable consumer and labor-market value. The Department anticipates that how Industry Programs evaluate and adjust their programs will vary, depending on the nature of the industry or occupation, and that SREs' competency-based standards will provide adequate guidance to Industry Programs so that apprentices receive credentials with value. The Department seeks comment on this issue.

Paragraph (a)(4)(v) requires that Industry Programs provide a safe working environment for apprentices that adheres to all applicable Federal, State, and local safety laws and regulations.

Paragraph (a)(4)(vi) requires that the Industry Program provide structured mentorship opportunities so that apprentices have guidance on the progress of their training and their employability. Mentors support apprentices during their work-based learning experience, and can provide guidance on company culture, specific position functions, and workplace policies and procedures. Mentors can help develop learning objectives for apprentices, and assist in measuring their progress and proficiency.

Paragraph (a)(4)(vii) requires that Industry Programs ensure apprentices are paid at least the applicable Federal, State, or local minimum wage. The Industry Program must also provide a written notice to apprentices of what wages apprentices will receive and under what circumstances apprentices' wages will increase.

Paragraph (a)(4)(viii) requires that Industry Programs affirm their adherence to all applicable Federal, State, and local laws and regulations pertaining to Equal Employment Opportunity (EEO). The Department includes this provision to make it abundantly clear that apprentices—like other types of workers—should not be discriminated against. This requirement is distinct from the requirements that apply only to registered apprenticeships under 29 CFR 30.

Paragraph (a)(4)(ix) requires that Industry Programs disclose, prior to when apprentices agree to participate in the program, any ancillary costs or expenses that will be charged to apprentices (such as costs related to tools or educational materials). Disclosure of such costs is necessary before apprentices agree to begin a program so that apprentices can accurately calculate their anticipated earnings.

Paragraph (b) states that an SRE must validate that Industry Programs it recognizes comply with paragraph (a)(4). This means that the SRE must affirm to the Administrator that an Industry Program it recognizes is a high-quality program, as reflected by its conformity to what (a)(4)(i)–(ix) require. Validation under 29.22(b) should be provided to the Administrator under § 29.22(a)(2), when an SRE informs the Administrator that it has recognized an Industry Program.

Paragraph (c) requires SREs to disclose the credentials that apprentices will earn during their successful participation in or upon completion of an Industry Program, as is the norm in the private sector. An SRE could disclose these credentials on its website, for example.

Paragraphs (d), (e), and (f) discuss the steps SREs must take to assure rigorous and fair decision-making in the recognition process.

Paragraph (d) states that SREs must have sufficiently detailed policy and procedures so that programs seeking recognition will be assured of equitable treatment, and will be evaluated based on their merits. An SRE must ensure that its decisions are based on objective criteria, and are impartial and confidential. The Department proposes these requirements so that that the decisions of SREs reflect the quality of the program, not other factors. By requiring confidentiality, this provision also respects the privacy of entities seeking recognition, since seeking

recognition could entail providing confidential business information.

Paragraph (e) prohibits SREs from recognizing their own apprenticeship programs unless they provide for impartiality and mitigate conflicts of interest via specific policies, processes, procedures, and/or structures. For example, a large manufacturer could establish Industry Programs for different functions within its plants, provided that the personnel developing standards for the programs are distinct from personnel evaluating the programs. The Department believes this requirement of independence between the SRE and Industry Program encourages fairness and guards against conflicts of interest, and is already a common requirement.

Paragraph (f) requires that an SRE either not offer services, including consultative and educational services for example, to Industry Programs that would impact the impartiality of the SRE's recognition decisions, or it must provide for impartiality, and mitigate any potential conflicts of interest via specific policies, processes, procedures, and structures. The Department believes this approach is necessary because it expects many SREs will already be leaders in their industries. Such SREs may currently provide, or will provide, consultative services that entail giving expert advice or counsel to potential Industry Programs. Such consultative services could include services designed to build high-quality credentialing programs; assist those developing Industry Programs in articulating occupational competencies and determining appropriate credentials; assess the acquisition of competencies and learning outcomes; and measure the quality, effectiveness, and market value of an occupational credential. Though an SRE's offering such services could create a conflict of interest, barring SREs from providing them could likewise check the development of new apprenticeship programs or negatively impact their quality.

Accordingly, SREs that provide these services should take steps necessary to mitigate conflicts of interest that may arise from them. For example, an SRE could establish a ''firewall'' between program designers and the personnel that make recognition decisions. Or the SRE could simply transition to working with a separate and independent partner, or establish other processes to create independence. These approaches help ensure public confidence in the integrity of Industry Programs, while at the same time leveraging SREs' industry expertise. The Department emphasizes in relation to paragraphs (e) and (f) that a prospective SRE's inability to demonstrate sufficiently robust policies, processes, procedures, and/or structures showing impartiality provides grounds for rejecting that application. In such an instance, and pursuant to 29.21(d)(1), the Department must provide notice specifying remedies to be undertaken, which would facilitate resubmission of the application. Recognizing the importance of maintaining the integrity of Industry Programs, the Department solicits comments on how best to address conflicts of interest.

Paragraph (g) requires that SREs must not recognize Industry Programs for longer than five years at a time, and prohibits SREs from automatically renewing recognition. The Department proposes five years as a reasonable period of time in keeping with standard practices in the credentialing industry. The Department believes five years would also typically provide adequate time for many types of programs' apprentices to finish the program and obtain credentials, which would in turn facilitate an SRE's subsequent evaluation of that Industry Program. SREs may choose to recognize programs for shorter periods, which may be suitable for rapidly-evolving industries and occupations. In either case, the Department believes that requiring re-recognition periodically will help SREs and Industry Programs actively reevaluate credentials and education or related training to reflect the needs of apprentices and employers in the relevant industries or occupational areas. This will, in turn, ensure that Industry Programs equip apprentices with needed competencies and remain high-quality programs.

Paragraph (h) requires that SREs and Industry Programs be in an ongoing quality-control relationship and provides general guidelines for that requirement. The specific means and nature of the relationship between the SRE and an Industry Program will be defined by the SRE, provided that the relationship: (1) Results in reasonable and effective quality control that includes as appropriate, consideration of apprentices' credential attainment, program completion, and job placement rates; (2) does not place barriers on receiving recognition from another SRE; and (3) does not conflict with this subpart or violate any applicable law.

The Department believes that SREs' effective quality control of Industry Programs is essential to the development and maintenance of high-quality apprenticeships. The Department also believes that SREs are best situated to understand their industries and recognized programs, and accordingly structure their interactions in ways that result in high-quality apprenticeship programs that equip apprentices with knowledge and skills essential for operating independently in their fields. Because the Department expects that SREs and Industry Programs will enter into some form of agreement, that agreement may be an appropriate vehicle for outlining the nature of the quality control the SRE will provide. The Department seeks to ensure effective quality-control of Industry Programs, and solicits comment on whether it should further delineate requirements for the quality-control relationship—for example, by requiring SREs to assess apprentices' post-program earnings, which the Department believes would be a useful data point for evaluating programs.

In addition, the Department seeks to ensure that Industry Programs have significant flexibility in customizing their programs, including by seeking recognition from multiple SREs if appropriate. This could strengthen the quality of apprentices' training, and assist with the offering and receipt of stackable credentials that enhance the value apprentices receive from Industry Programs in an increasingly dynamic marketplace.

Paragraph (i) makes clear that an entity's participation as an SRE of an Industry Program does not make the SRE a joint employer with the entity(ies) that develop or deliver Industry Programs.

Paragraph (j) requires SREs to make publicly available certain information the Department considers important for providing employers and prospective apprentices the details necessary to make informed decisions about Industry Programs. For example, the total number of apprentices that begin or complete a program each year could assist an employer in gauging the number of apprentices that employer could integrate into its workforce if it opens a plant near that program. Likewise, program length, and annual completion and post-apprenticeship employment rates—or additional measures such as earnings rates—could inform an apprentice's choice between Industry Programs. A program with a length of six months, an 85% completion rate on average over a year-long period, and a high likelihood of employment after completing the apprenticeship may present a better option than a one-year program for the same occupation with lower annual completion and post-apprenticeship employment rates.

As the Department seeks to evaluate the success of SREs and Industry Programs, the Department seeks

comment on which performance measures would be most helpful in assessing program impact and quality assurance. In particular, the Department is considering setting performance measures related to post-apprenticeship employment and wages and employer retention. The Department has a keen interest in minimizing burden on SREs and Industry Programs, and therefore also solicits comment on the most efficient approach to data collection.

Paragraph (k) generally requires SREs to have policies and procedures that would require Industry Programs to protect apprentices from discrimination, as well as assist in recruiting for and maximizing participation in apprenticeships. The Department seeks to expand the apprenticeship model broadly—including to employers and workers that might not previously have considered participating. The Department anticipates that paragraph (k) would help employers more efficiently comply with the law and recruit apprentices, which would in turn increase employer participation and accelerate expansion of Industry Programs.

At the same time, by requiring SREs to develop policies and procedures, the Department affirms that SREs are ultimately responsible for EEO obligations. Because this new apprenticeship system is industry-led, the Department believes it should empower SREs to develop policies and procedures appropriate for the types of employers SREs work with. Accordingly, the Department does not dictate exactly how the SREs should interact with Industry Programs. But regardless of how SREs choose to implement their policies and procedures, it is SREs that are responsible for complying with this paragraph.

In the first place, paragraph (k) requires that an SRE must have policies and procedures that require Industry Programs' adherence to applicable Federal, State, and local laws pertaining to Equal Employment Opportunity. The SRE must facilitate such adherence through its policies and procedures regarding potential harassment, intimidation, and retaliation. Again, the Department proposes requiring *SREs* to have these policies and procedures. At the same time, by not dictating how SREs comply with paragraph (k), the Department seeks to ensure SREs have the flexibility to offer employers the benefit of the SREs' capacity and resources. For example, an SRE could assist small employers establishing Industry Programs by providing centralized anti-harassment training. Likewise, the SRE could establish a uniform mechanism for receiving complaints from apprentices concerning discrimination. Ultimately, the Department seeks to maximize an SRE's ability to satisfy this provision in ways that best serve the types of Industry Programs and types of employers that SRE works with.

This paragraph also requires that the SRE have policies and procedures that reflect comprehensive outreach strategies to reach diverse populations. The SRE's policies and procedures will help address the skills gap by facilitating more widespread access to the SREs' Industry Programs by individuals that may not have applied to apprenticeships previously. Again, the Department believes that SREs should have flexibility in how they design and execute their policies and procedures. For example, an SRE that works primarily with large corporations to establish Industry Programs could devolve requirements for outreach to the extent those corporations already have fulsome recruiting programs. An SRE working with smaller employers of more limited means could opt for a more centralized approach. An SRE that works primarily with smaller employers to establish Industry Programs could circulate notices about apprenticeship openings to schools, community- and faith-based organizations, and other groups with members that may not have considered apprenticeship in the past. An SRE could likewise assist such employers with the development and distribution of materials for recruiting, which could both be part of the SRE's comprehensive outreach strategies and would benefit Industry Programs' recruitment. Regardless of how the SRE seeks to implement its policies and procedures as it works with Industry Programs and employers, that SRE is responsible for ensuring its policies and procedures are executed. Finally, this paragraph requires that the SRE must assign responsibility to an individual to assist Industry Programs with matters relating to this paragraph. For example, an SRE could designate a staff member in its human resources department to address questions from employers participating in its Industry Programs. The Department believes that paragraph (k)'s straight-forward requirements—which are distinct from the requirements that apply to registered apprenticeships under subpart A and 29 CFR 30—will benefit SREs, their Industry Programs, and employers and apprentices alike.

Quality Assurance (§ 29.23)

Section 29.23 provides that the Administrator may request and review materials from SREs to determine whether the SRE is in conformity with the requirements of the subpart. SREs should provide requested materials, consistent with paragraph 29.22(a)(3). The Department believes this provision is necessary to ensure fair and full review of SREs under section 29.27.

Publication of Standards Recognition Entities and Industry Programs (§ 29.24)

Section 29.24 indicates that the Administrator will make publicly available a list of SREs and the Industry Programs they recognize. The Department anticipates that this information will help apprenticeship programs seeking recognition to find SREs, and will help individuals seeking employment find high-quality apprenticeships. The Department is also considering whether to use this list as a mechanism for pointing users to, or otherwise aggregating and displaying, the information SREs would make public under proposed § 29.22(j), and seeks comment on this potential approach.

This list would also inform the public of the status of SREs and Industry Programs. Consistent with the requirements of paragraph 28.28(d)(2), the Administrator will publish an SRE's suspension on this list, informing the public and Industry Programs that have been recognized. Similarly, a derecognized SRE would no longer appear on the list, nor would a related Industry Program that has lost its status under paragraph 29.29(a).

Expedited Process for Recognizing Industry Programs as Registered Apprenticeship Programs (§ 29.25)

Section 29.25 would establish a process for the Administrator to consider Industry Programs for expedited registration under subpart A's Registered Apprenticeship Program. It is important to note that the goal of establishing Industry Programs is to create an additional and parallel pathway to encourage expansion of apprenticeships beyond those industries where registered apprenticeships already are effective and substantially widespread. Nor does the Department anticipate that apprenticeship programs that have chosen not to register to date would now seek to do so under this section, which does not alter the requirements for registered apprenticeship programs. Accordingly, the Department does not expect many, if any, dual apprenticeship programs,

and seeks comment on the proposed approach to expedited registration. Under the proposed rule, a recognized Industry Program may request that the Office of Apprenticeship register it within 60 days of the Administrator's receiving all information necessary to make a decision. As noted in paragraph (a), the Department will register Industry Programs that demonstrate compliance with part 29, subpart A, and part 30 of this title.

Paragraph (b) provides the Administrator the authority to request additional information from an Industry Program necessary to determine the Industry Program's compliance with part 29, subpart A, and part 30 of this title. The Department envisions that Industry Program would submit to the Office of Apprenticeship the same materials submitted to an SRE to obtain recognition. After reviewing that initial submission, the Administrator would determine what additional information, if any, was necessary to evaluate whether the Industry Program was in compliance with part 29, subpart A, and part 30. Upon receipt of all necessary information, the Administrator will notify the Industry Program that it will provide a decision on its application within 60 days, pursuant to paragraph (c).

The Department envisions that the Office of Apprenticeship would exclusively handle expedited registration of Industry Programs for Federal purposes. Given that Department-recognized State Apprenticeship Agencies may have different procedures for registration, the Department envisions that Federal registration is the best means of ensuring consistency and efficiency in registering Industry Programs that meet the requirements of part 29, subpart A, and part 30. Nothing in this section is intended to prohibit an Industry Program from separately applying to a recognized State Apprenticeship Agency and moving through the process for registering apprenticeship programs in that State.

Complaints Against Standards Recognition Entities (§ 29.26)

Section 29.26 proposes the procedure for reporting complaints against SREs arising from SREs' compliance with the subpart. This section is intended to provide an avenue for the Administrator to learn of any needed information that might impact the SRE's continued qualification under § 29.21(b).

Paragraph (a) provides that a complaint arising from an SRE's compliance with this subpart may be submitted by an apprentice, the apprentice's authorized representative, a personnel certification body, an employer, a Registered Program representative (someone authorized to speak on behalf of a registered apprenticeship program), or an Industry Program. The Department anticipates that each of these entities may have information that could warrant the Administrator's review. A personnel certification body involved in the credentialing process—for example, an organization that administers exams to apprentices upon completion of an Industry Program and awards a credential to apprentices that pass the exam—may accrue data over time that reflects a disproportionately high failure rate on the exam for individuals from that particular Industry Program. Such a failure rate could establish that individuals from that program lack the knowledge and skills needed to sit for the exam. This, in turn, could reflect a deficiency in the SRE's quality-control relationship with the Industry Program, and may warrant the Administrator's review.

Paragraph (b) describes the requirements for complaints submitted to the Administrator. The complaint must be in writing and must be submitted within 60 days of the circumstances giving rise to the complaint. It must set forth the specific matter(s) complained of, together with relevant facts and circumstances. Copies of pertinent documents and correspondence must accompany the complaint. These requirements ensure that the Administrator is promptly and fully informed of relevant information, and has what is needed to determine whether the complaint warrants review under § 29.27.

Paragraph (c) clarifies that the Department will address complaints submitted to the Department only through the review process outlined in § 29.27. And paragraph (d) explains that nothing in the section would preclude a complainant from pursuing any remedy authorized under Federal, State, or local law.

Review of a Standards Recognition Entity (§ 29.27)

This section outlines the process for the Administrator's review of SREs. This process exists to ensure that the Administrator has a mechanism for reviewing information necessary to determine whether an SRE may no longer be qualified to recognize or capable of recognizing Industry Programs. This section also provides an SRE with the opportunity to respond to the Administrator with relevant information, which could include information showing the SRE has acknowledged and taken steps to cure any deficiency, making suspension unnecessary.

Paragraph (a) explains that an Administrator may initiate review of an SRE if it receives information indicating that the SRE is not in substantial compliance with the subpart, or that the SRE is no longer capable of continuing as an SRE. For example, the Administrator may learn of such information through an SRE's disclosure under § 29.21(c)(2). The Department proposes adopting the standard of substantial compliance because it anticipates that certain information received may reflect only inconsequential errors that do not negatively affect the SRE's recognition process or result in lower-quality Industry Programs. This provision authorizes the Administrator's initiating a formal review.

Paragraph (b) describes the notice of review SREs would receive, and procedures the Administrator would follow in carrying out such a review. The Administrator would provide the SRE written notice of the review by certified mail, with return receipt requested. The notice would describe the basis for the Administrator's review, including potential areas of substantial noncompliance with the subpart and a detailed description of the information supporting review. The notice should provide the SRE with an opportunity to provide information for the Administrator's review; this will help ensure that the Administrator is fully and fairly informed as it seeks to evaluate the SRE in light of paragraph (a). This opportunity also provides the SRE with the option of including information showing the SRE has acknowledged and taken steps to cure any deficiency, making suspension unnecessary.

Paragraph (c) provides that on conclusion of the Administrator's review, the Administrator will give written notice of its decision to either take no action or to suspend the SRE as provided under § 29.28.

Suspension and Derecognition of a Standards Recognition Entity (§ 29.28)

Proposed § 29.28 describes the means by which the Administrator can suspend and, if necessary, derecognize an SRE. Such a process is necessary to ensure that an Administrator can address an SRE's failure to comply with the subpart or its inability to continue as an SRE. It also provides the SRE with an additional opportunity to work with the Administrator to address substantial noncompliance. Overall, these steps

preserve the integrity of the recognition process necessary for high-quality Industry Programs.

This section begins by explaining that the Administrator may suspend an SRE for 45 calendar days based on the Administrator's review and determination that any of the situations described in § 29.27(a)(1) (the SRE is not in substantial compliance with the subpart) or (a)(2) (the SRE is no longer capable of continuing as an SRE) exist.

If, after the review required by § 29.27, the Administrator has determined that suspension is appropriate, (a) requires that the Administrator must provide notice of suspension in accord with § 29.21(d)(2)–(3), but stating that a request for administrative review may be made within 45 calendar days of receipt of the notice. Paragraph (b) requires that the notice set forth an explanation of the Administrator's decision, including identified areas of substantial noncompliance and necessary remedial actions. It also requires that the notice explain that the Administrator will derecognize the SRE in 45 calendar days unless remedial action is taken or a request for administrative review is made.

Paragraph (c) outlines the various outcomes that could follow the notice. Each outcome depends on the SRE's response to the notice. Under (c)(1), if the SRE responds by specifying its proposed remedial actions and commits itself to remedying the identified areas of substantial noncompliance, the Administrator will extend the 45-day period to allow a reasonable time for the SRE to implement remedial actions. If at the end of that time the Administrator determines that the SRE has remedied the identified areas of substantial noncompliance, the Administrator must notify the SRE, and the suspension will end. In the alternative, if at the end of that time the Administrator determines that the SRE has not remedied the identified areas of substantial noncompliance, the Administrator will derecognize the SRE and must notify the SRE in writing and specify the reasons for its determination. Such notice must comply with § 29.21(d)(2)–(3).

Under (c)(2), if the SRE responds to the notice by making a request for administrative review within the 45-day period, the Administrator shall refer the matter to the Office of Administrative Law Judges to be addressed in accord with § 29.30. The Department has determined that an appeal right is appropriate given the significant impact of suspension on SREs under paragraph (d), which bars the SRE from recognizing new programs during suspension and requires the Administrator to publish the SRE's suspension publicly as described in § 29.24.

Under (c)(3), if the SRE does not act in response to the notice under (c)(1) or (c)(2), the Administrator will derecognize the SRE, as indicated in the notice already given to the SRE under (b). Absent recognition, an entity is no longer and may not function as an SRE. This means the former SRE could neither recognize apprenticeship programs, nor remain listed on the Administrator's website under § 29.24.

The Department believes that the processes in §§ 29.27 and 29.28 maximize the likelihood of an SRE's remedying areas of substantial noncompliance before or during the suspension phase. This is especially the case given the notices the SRE would receive under §§ 29.27(b) and 29.28(b), which exist in part to help minimize disruption to SREs—and Industry Programs, apprentices, and the employers that rely on them—by providing information needed to remedy substantial noncompliance.

Derecognition's Effect on Industry Programs (§ 29.29)

This proposed section explains the effects an SRE's derecognition would have on Industry Programs that it recognized. Under paragraph (a), an Industry Program would maintain its status until 1 year after the Administrator's decision derecognizing the Industry Program's SRE becomes final, including any appeals. At the end of that time, the Industry Program would lose its status unless it is already recognized by another SRE. The Department believes that this amount of time would facilitate an Industry Program's seeking recognition with another SRE. During that time, the Department anticipates that the Industry Program will continue to adhere to the SRE's rules even if the SRE no longer continues to exist. The Department seeks comments on its proposed approach.

Also, as stated above, the Department proposes no limitations on an Industry Program's being recognized by multiple SREs. Where an Industry Program has recognition from multiple SREs, the derecognition of one of those SREs would not trigger the one-year period. Paragraph (b) clarifies that if an Industry Program is also registered under subpart A in the registered apprenticeship program, the derecognition of its SRE would not disturb its registration.

Requests for Administrative Review (§ 29.30)

Proposed § 29.30 describes procedures and requirements for requests for administrative review under this subpart. A prospective SRE may request review of the Administrator's denial of recognition as provided under § 29.21(d). Likewise, an SRE may appeal the Administrator's decisions under § 29.28. The process for requesting administrative review exists to ensure that prospective and recognized SREs receive process adequate for their positions to be heard and their rights to be protected. The provisions are generally modeled after the process outlined in current 29 CFR 29.13(g).

Paragraph (a) provides that, within 30 calendar days of the filing of a request for administrative review, the Administrator should prepare an administrative record for submission to the Administrative Law Judge designated by the Chief Administrative Law Judge.

Paragraph (b) provides that the procedural rules contained in 29 CFR part 18 apply to the disposition of requests for administrative review, with two exceptions. First, the Administrative Law Judge will receive, and make part of the record, documentary evidence offered by any party and accepted at the hearing. Copies of the evidence will be made available by the party submitting the documentary evidence to any party to the hearing upon request. This exception exists to ensure that all evidence relevant to an SRE or prospective SRE is considered and weighed, even if not presented in advance of the hearing.

Second, technical rules of evidence would not apply to hearings conducted, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination would be applied, where reasonably necessary, by the Administrative Law Judge conducting the hearing. The Administrative Law Judge would have the ability to exclude irrelevant, immaterial, or unduly repetitious evidence. The Department believes this exception will reduce the costs of hearings for SREs, the government, and any other interested parties.

Paragraph (c) provides that the Administrative Law Judge should submit proposed findings, a recommended decision, and a certified record of the proceedings to the Administrative Review Board, SRE, and Administrator within 90 calendar days after the close of the record.

Paragraph (d) provides that, within 20 days of the receipt of the recommended decision, any party may file exceptions to it. Any party may file a response to the exceptions filed by another party within 10 days of receipt of the exceptions. All exceptions and responses must be filed with the Administrative Review Board with copies served on all parties and amici curiae.

Paragraph (e) provides that after the close of the period for filing exceptions and responses, the Administrative Review Board may issue a briefing schedule or may decide the matter on the record before it. The Administrative Review Board must decide any case it accepts for review within 180 days of the close of the record. If the Administrative Review Board does not act, the Administrative Law Judge's decision constitutes final agency action. The decision of the Administrative Review Board would constitute final agency action by the Department.

Scope and Deconfliction Between Apprenticeship Programs Under Subpart A and Subpart B (§ 29.31)

Apprenticeships established under subpart B should expand apprenticeships broadly to new industry sectors and occupations through a pathway that is parallel to and distinct from registered apprenticeship programs under subpart A. As the Department seeks to address the skills gap, it recognizes that in some contexts registered apprenticeship programs are already effective and substantially widespread. In these sectors, various entities have heavily invested in and rely on existing programs, which has led to a relatively high concentration of registered apprenticeship opportunities in these sectors. The Department intends to expand Industry Programs into contexts lacking such opportunities. Accordingly, the Department proposes that it would only recognize SREs that seek to recognize Industry Programs in sectors without significant registered apprenticeship opportunities.

The President's Task Force on Apprenticeship Expansion recognized this purpose. The mission of the President's Task Force entailed identifying strategies and proposals to promote apprenticeships, ''especially in sectors where apprenticeship programs are insufficient.'' At the outset, the Task Force's deliberations were framed by the acknowledgment that the registered apprenticeship program would continue, and that the vision was to set up a parallel apprenticeship program separate from registered apprenticeships.

With that framework in mind, the Task Force developed, deliberated over, and voted on various recommendations, transmitting them to the President in a *Final Report.* The *Final Report's* Recommendation 14 suggested that: ''The Industry-Recognized Apprenticeship program should *begin implementation with a pilot project in an industry without well-established Registered Apprenticeship programs.*'' [12] This recommendation depends on the distinction between contexts where registered apprenticeship programs are and are not well-established, and focusing at the outset on contexts where apprenticeship opportunities are not currently significant.

The Department has carefully considered the Task Force's recommendation that it begin with a pilot project, and its premise that there are contexts where registered apprenticeship opportunities are already well-established. On the one hand, the Department believes that the large skills gap requires a more immediate response than a pilot project would permit. Workers and employers in many sectors of the economy would benefit from greater use of apprenticeship programs where registered apprenticeship opportunities are not currently significant. Accordingly, the Department does not propose limiting this new program to one or even a handful of industries.

At the same time, the Department agrees that apprenticeship expansion should not come at the cost of existing registered apprenticeship programs. Instead, there is significant value to establishing a parallel apprenticeship system that avoids undercutting the current registered apprenticeship system where it is widespread. Various entities, including State Apprenticeship Agencies [13] and governors and States themselves,[14] have invested in and rely on registered apprenticeship programs.[15]

As an initial matter, the Department proposes to only recognize SREs that seek to recognize Industry Programs in sectors without significant registered apprenticeship opportunities, as outlined in its Training and Employment Notice, ''Creating Industry-Recognized Apprenticeship Programs to Expand Opportunity in America.'' The Department would use the number of federal registered apprentices from prior years to approximate where registered apprenticeship opportunities are already significant. To count federal registered apprentices from prior years by sector, the Department generally uses pertinent North American Industry Classification System (NAICS) codes that it has assigned to each registered program.[16] With this information, the Department would identify sectors where registered apprenticeship opportunities are already significant as those that have had more than 25% of all federal registered apprentices per year on average over the prior 5-year period, or that have had more than 100,000 federal registered apprentices per year on average over the prior 5-year period, or both, as reported through the prior fiscal year by the Office of Apprenticeship.[17] The Department believes these thresholds are reasonable measures of where registered apprenticeship opportunities are already significant relative to other sectors. For example, over the prior five-year period, on average the U.S. Military had approximately 32% of federal registered apprentices.[18] By contrast, the next highest categories were Public Administration and Manufacturing, which each had only 5% of federal registered apprentices. The Department proposes assessing data averaged over a

[12] Task Force on Apprenticeship Expansion, ''Final Report to the President of the United States,'' May 10, 2018, 34 (emphasis added).

[13] For years, the Department has worked in conjunction with State Apprenticeship Agencies to administer the registered apprenticeship system. *Id.* at 14.

[14] Each State and/or governor, depending on state governance models, receives a portion of federal dollars to create State registered apprenticeship infrastructures. States have also developed approaches targeted to their particular needs that take advantage of the registered apprenticeship system. For example, some States have created positions that help align registered apprenticeship programs with State and local industry needs. Likewise, some States have chosen to offer tax credits to entities hiring registered apprentices, or to pay for costs associated with registered apprenticeship programs.

[15] *See Encino Motorcars, LLC* v. *Navarro,* 136 S. Ct. 2117, 2126 (''[A]n agency must also be cognizant that longstanding policies may have engendered serious reliance interests that must be taken into account.'' (internal quotation marks omitted)).

[16] *See* Employment and Training Administration, ''Apprenticeship: Data and Statistics,'' (Mar. 6, 2019) (providing breakout of federal registered apprentices by sector), available at *https://doleta.gov/oa/data_statistics.cfm.* The Department accounts for apprentices in the United Services Military Apprenticeship Program (USMAP) apart from NAICS.

[17] *Id.* (reporting numbers of federal registered active apprentices by prior fiscal year in Construction, the U.S. Military, Public Administration, Manufacturing, and additional sectors). The Department proposes using data concerning federal registered apprentices due to limitations in data it receives from the States.

[18] The U.S. Military had approximately 94,000 registered apprentices each year on average during the same time.

five-year period to ensure its determinations reflect long-term trends.

Based on the proposed thresholds, the Department expects to identify the U.S. Military and construction [19] as contexts where registered apprenticeship opportunities are already significant. Accordingly, the Department would not, at least initially, accept applications from SREs seeking to recognize apprenticeship programs in the U.S. Military or in construction.[20]

The Department would define an apprenticeship program in the U.S. Military as one that provides a credential to members of the U.S. Military based on their military training and experience.[21] An apprenticeship program would be in construction if it equips apprentices to provide labor whereby materials and constituent parts may be combined on a building site to form, make, or build a structure.[22]

The Department recognizes, however, the need for flexibility over time, particularly as the economy and workforce needs change. The Department accordingly seeks comment on whether its approach is the best measure of where there are significant registered apprenticeship opportunities, and is appropriate for managing potential overlap and conflict between registered apprenticeship programs and Industry Programs; on how that approach should be described and implemented in the future; and on whether the Department should consider alternative or additional means to promote and support the expansion of Industry Programs in sectors that do not currently have significant registered apprenticeship opportunities. The Department also seeks comment on whether this provision should sunset after a certain period of time and, if so, what length of time would be appropriate.

In the interest of maintaining distinction between Industry Programs and registered apprenticeship programs, the Department wishes to clarify that recognition as an Industry Program does not confer categorical eligibility for government programs which provide special status to programs registered under the National Apprenticeship Act.

## III. Agency Determinations

### *A. Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 13771 (Reducing Regulation and Controlling Regulatory Costs) and the Congressional Review Act*

Under E.O. 12866, OMB's Office of Information and Regulatory Affairs determines whether a regulatory action is significant and, therefore, subject to the requirements of the E.O. and review by OMB. See 58 FR 51735 (Oct. 4, 1993). Section 3(f) of E.O. 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule that: (1) Has an annual effect on the economy of $100 million or more, or adversely affects in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as economically significant); (2) creates serious inconsistency or otherwise interferes with an action taken or planned by another agency; (3) materially alters the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O. *Id.* This NPRM is a significant regulatory action, although not an economically significant regulatory action under sec. 3(f) of E.O. 12866.

E.O. 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; the regulation is tailored to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits. E.O. 13563 recognizes that some benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitatively values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

E.O. 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. This proposed rule is expected to be an E.O. 13771 regulatory action. Details on the estimated costs of this proposed rule can be found in the rule's economic analysis.

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

#### 1. Summary of the Economic Analysis

The Department anticipates that the proposed rule would result in benefits and costs for employers, apprentices, and society. The benefits of the proposed rule are described qualitatively in section III.A.2 (Benefits). The estimated costs are explained in sections III.A.3 (Quantitative Analysis Considerations), III.A.4 (Subject-by-Subject Analysis), and III.A.5 (Summary of Costs). The nonquantifiable costs are described qualitatively in section III.A.6 (Nonquantifiable Costs). The nonquantifiable transfer payments are described qualitatively in section III.A.7 (Nonquantifiable Transfer Payments). Finally, the regulatory alternatives are explained in section III.A.8. (Regulatory Alternatives).

The costs of the proposed rule for SREs include rule familiarization, completing the application form, and remaining in an ongoing quality-control relationship with Industry Programs. The costs of the proposed rule for Industry Programs include rule familiarization and providing performance information to the SRE. The costs of the proposed rule for the Federal government are associated with development and maintenance of an online Standards Recognition Entity application form, reviewing applications, and development and maintenance of an online list of SREs and Industry Programs.

Exhibit 1 shows the total estimated costs of the proposed rule over ten years at discount rates of 3 percent and 7 percent. The proposed rule is expected

[19] The construction industry has had approximately 48% of all federal registered apprentices on average over the prior 5-year period, averaging approximately 144,000 federal registered apprentices per year.

[20] While categorizing apprentices by sector using NAICS codes is feasible retrospectively because the Department has worked with registered programs to assign a proper code and properly categorize them at the time of their registration, the Department would not have such an opportunity before entities submit application forms under this proposed regulation. Accordingly, the Department would require prospective SREs to affirm in their applications that they will not seek to recognize Industry Programs in the U.S. Military or in construction.

[21] This definition accounts for federal registered apprenticeship opportunities offered through the United Services Military Apprenticeship Program (USMAP).

[22] *See generally Union Asphalts & Roadoils, Inc.* v. *MO–KAN Teamsters Pension Fund,* 857 F.2d 1230, 1234 (8th Cir. 1988) (defining building and construction industry). The Department's proposed approach incorporates a long-standing definition of the building and construction industry from case law interpreting the Employee Retirement Income Security Act, *see* 29 U.S.C. 1383(b), and the Labor Management Relations Act, *see* 29 U.S.C. 158(f). The Department's approach focuses on the occupations apprentices are actually trained for, and is the most direct method of preserving well-established registered apprenticeship programs in construction. By contrast, deciding whether an SRE seeks to recognize programs in construction based on an applicant-supplied NAICS code would be under protective because NAICS codes are a function of an entity's primary business activity, and some entities (or consortia of entities) that would train apprentices for construction work do not have construction as their primary activity.

to have first year costs of $9.3 million in 2017 dollars. Over the 10-year analysis period, the annualized costs are estimated at $7.6 million at a discount rate of 7 percent in 2017 dollars. In total, over the first ten years, the proposed rule is estimated to result in costs of $53.4 million at a discount rate of 7 percent in 2017 dollars.

**Exhibit 1: Estimated Costs (2017 dollars)**

| | Costs |
|---|---|
| First Year Total | $9,329,761 |
| | |
| Annualized, 3% discount rate, 10 years | $7,619,790 |
| Annualized, 7% discount rate, 10 years | $7,604,142 |
| | |
| Total, 3% discount rate, 10 years | $64,998,357 |
| Total, 7% discount rate, 10 years | $53,408,309 |

When the Department uses a perpetual time horizon to allow for cost comparisons under E.O. 13771, the perpetual annualized costs are $7,256,096 (with a present value of $103,658,516) at a discount rate of 7 percent in 2016 dollars.

2. Benefits

This section provides a qualitative description of the anticipated benefits associated with the proposed rule. The Department expects this regulation to have a net benefit overall.

Through this regulation, and as explained in the rule's Background section, above, the Administration seeks to address a persistent and serious long-term challenge to American economic leadership in the global marketplace: A significant mismatch between the occupational competencies that businesses require and the job skills that aspiring employees possess. While there were over 7.3 million job openings in the United States at the end of 2018,[23] some openings go unfilled because there are not enough workers with needed skills.[24] This pervasive skills gap poses a serious impediment to job growth and productivity throughout the economy.

The promotion and expansion of quality apprenticeships can play a key role in alleviating the skills gap by providing individuals including young people, women, and other populations with relevant workplace skills and a recognized credential. This proven workforce development technique not only helps individuals to move into decent, family-sustaining jobs, but also assists businesses with finding the workers they need to maintain their competitive edge. Individuals who successfully complete an apprenticeship program are estimated to amass career-long earnings (including employee benefits) that are greater than the earnings of similarly-situated individuals who did not enroll in such programs.[25]

The *Final Report* of the Task Force on Apprenticeship Expansion noted that while ''the Federal Government can establish the framework for a successful apprenticeship program and provide support, substantial change must begin with industry-led partnerships playing the pivotal role'' of creating, recognizing, and managing apprenticeship programs.[26] Underlying this approach is the conviction that private industry—rather than government—is best suited to determine the occupational skills that workers need to acquire through apprenticeship programs. Such an industry-led approach would provide employers the flexibility they need to devise customized programs that serve their specialized business requirements.

Accordingly, the Department is proposing to issue this regulation, which would supplement the current system of registered apprenticeships with a parallel system of Industry Programs, thereby enabling the rapid expansion of quality apprenticeships across a wide range of industries and occupational areas. This proposed regulation would require SREs to recognize and maintain recognition of only high-quality Industry Programs, which will benefit apprentices and encourage the expansion of the apprenticeship model.

The Department invites public comment on the benefits of this NPRM with the goal of ensuring a thorough consideration and discussion at the final rule stage.

3. Quantitative Analysis Considerations

The Department estimated the costs of the proposed rule relative to the existing baseline (*i.e.,* no Industry Programs). In accordance with the regulatory analysis guidance articulated in OMB Circular A–4 and consistent with the Department's practices in previous rulemakings, this regulatory analysis focuses on the likely consequences of the proposed rule (*i.e.,* the costs that are expected to accrue to the affected entities). The analysis covers 10 years to ensure it captures the major costs that are likely to accrue over time. The Department expresses the quantifiable impacts in 2017 dollars and uses discount rates of 3 and 7 percent, pursuant to Circular A–4. The Department invites comment on the analysis in this section.

a. Estimated Number of Applications and SREs

To calculate the annual costs, the Department first needed to estimate the number of applications and SREs over

[23] U.S. Dep't of Labor, Bureau of Labor Statistics, ''Job Openings and Labor Turnover—December 2018,'' Feb. 12, 2019, *https://www.bls.gov/news.release/archives/jolts_02122019.pdf.*

[24] *See, e.g.,* Task Force on Apprenticeship Expansion, ''Final Report to the President of the United States,'' May 10, 2018, 16 (citing 2018 report from National Federation of Independent Business); Business Roundtable, ''Closing the Skills Gap,'' *https://www.businessroundtable.org/policy-perspectives/education-workforce/closing-the-skills-gap* (last visited April 16, 2019).

[25] *See, e.g.,* Mathematica Policy Research, ''An Effectiveness Assessment and Cost-Benefit Analysis of Registered Apprenticeship in 10 States: Final Report'' (July 25, 2012), *https://wdr.doleta.gov/research/FullText_Documents/ETAOP_2012_10.pdf.*

[26] Task Force on Apprenticeship Expansion, ''Final Report to the President of the United States,'' May 10, 2018, 19.

the 10-year analysis period. The Department believes a reliable guidepost for estimating the number of SRE applications is the number of entities that submitted grant applications in Fiscal Year 2016 under the Office of Apprenticeship's American Apprenticeship Initiative (AAI) grants program. The Department solicits comment on whether the AAI grant program is the best guidepost for estimating the number of applications and SREs, or whether superior alternative options exist.

Like Industry-Recognized Apprenticeship Programs, the AAI grant program was designed to encourage innovative approaches to the development of apprenticeship programs by a wide cross-section of groups, including private sector employers, labor unions, educational institutions, and not-for-profit organizations. In the four months during which AAI grant applications were accepted, the Office of Apprenticeship received 191 applications for grants from the intended cross-section of program sponsors and innovators. The 191 AAI applicants were diverse in terms of geography, industry sector, and apprenticeship-program design. The Department anticipates that the diversity in AAI applicants would be replicated in the context of this proposed rule.

Starting with 191 AAI grantee applicants as a reasonably-analogous baseline, the Department rounded this figure slightly upwards to 200 to provide for ease of estimation. The Department then reduced this number by 10 percent to 180 to account for how some entities in industries that applied for AAI grants may choose not to seek to participate in Industry Programs. The Department then adjusted this figure 50 percent higher to account for its planned efforts to promote Industry Programs in the private sector, resulting in an estimate of 270 SRE applications in Year 1 (= 180 × 1.5). The Department further estimates that it would recognize approximately 75 percent of applicants as SREs, either during their initial submission or their resubmission as permitted under paragraph 29.21(d)(1). Accordingly, the Department estimates that there would be 203 SREs (= 270 × 75%) in Year 1.

To estimate the number of applications and SREs in Years 2–10, the Department began by assuming that the total number of SREs would increase by 5 percent per year based on historic growth in the registered apprenticeship program. The Department seeks comment on this assumption. For example, in Year 2 the total number of SREs is estimated to be 213 (= 203 SREs in Year 1 × 1.05). The last column in Exhibit 2 shows the total number of SREs each year based on the Department's 5 percent growth rate assumption.

Next, the Department calculated the number of new SREs. For Years 1–5, the estimated number of new SREs is simply the difference between the total number of SREs each year. For example, in Year 5 the number of new SREs is estimated to be 12 (= 247 total SREs in Year 5 − 235 total SREs in Year 4).[27] But in Year 6, the calculation has an additional component because SREs would be recognized for 5 years, so SREs that wish to be recognized for another 5 years would need to undergo the Department's process for continued recognition. For purposes of this analysis, the Department estimates that 90 percent of SREs would undergo the Department's process for continued recognition. Thus, 183 SREs (= 203 new SREs in Year 1 × 90%) would submit applications for continued recognition in Year 6. The Department estimates that there would be 33 new SREs in Year 6, which reflects the 5 percent growth between Year 5 and Year 6 (259 − 247 = 12),[28] plus new SREs that would supplant the 10 percent of Year 1 SREs that do not submit applications for continued recognition in Year 6 (203 − 183 = 20).[29] This same calculation was used for Years 7–10.

Then, the Department estimated the number of new applications in Years 2–10 by dividing the number of new SREs each year by 75 percent since 75 percent of applicants are assumed to become recognized as SREs. For example, in Year 6, the number of new applications is estimated to be 44 (= 33 new SREs ÷ 75%).

The number of applications for continued recognition was calculated by multiplying the number of new SREs five years prior by 90 percent since the Department assumes that 90 percent of SREs would undergo the Department's process for continued recognition. For example, the Department estimates that 183 SREs (= 203 new SREs in Year 1 × 90%) would submit applications for continued recognition in Year 6, and that 9 SREs (= 10 new SREs in Year 2 × 90%) would submit applications for continued recognition in Year 7.

Finally, the number of total applications each year was estimated by summing the estimated number of new applications and the estimated number of applications for continued recognition each year. For example, in Year 1 the total number of applications is estimated to be 270 (= 270 new applications + 0 applications for continued recognition), while in Year 6 the total number of applications is estimated to be 226 (= 44 new applications + 183 applications for continued recognition).[30]

Exhibit 2 presents the projected number of applications and SREs for each year of the analysis period.

[27] Note: 12 ÷ 235 = 5 percent, which is the estimated growth rate for total SREs.

[28] Note: 12 ÷ 247 = 5 percent, which is the estimated growth rate for total SREs.

[29] The numbers do not sum to the total due to rounding. After calculating the estimated numbers of applications and SREs, the Department rounded the numbers to integers to use in the remaining calculations in this analysis.

[30] The numbers do not sum to the total due to rounding.

**Exhibit 2: Projected Number of Applications and Standards Recognition Entities**

| Year | New Applications | Applications for Continued Recognition[1] | Total Applications | New Standards Recognition Entities[2] | Total Standards Recognition Entities[3] |
|---|---|---|---|---|---|
| 1 | 270 | -- | 270 | 203 | 203 |
| 2 | 14 | -- | 14 | 10 | 213 |
| 3 | 14 | -- | 14 | 11 | 224 |
| 4 | 15 | -- | 15 | 11 | 235 |
| 5 | 16 | -- | 16 | 12 | 247 |
| 6 | 44 | 183 | 226 | 33 | 259 |
| 7 | 19 | 9 | 28 | 14 | 272 |
| 8 | 20 | 10 | 29 | 15 | 286 |
| 9 | 21 | 10 | 31 | 15 | 300 |
| 10 | 22 | 11 | 32 | 16 | 315 |

[1] Assumes 90% of New SREs will seek to continue recognition.

[2] Assumes 75% of New Applications and 100% of Applications for Continued Recognition will be recognized as SREs.

[3] Assumes a 5% growth rate in Total SREs.

b. Estimated Number of Industry Programs

To estimate the number of Industry Programs, the Department looked at the number of programs in the registered apprenticeship system in relevant contexts and, based on those data and related considerations, estimated that each SRE would recognize approximately 32 Industry Programs. The recognition of all 32 Industry Programs is not likely to occur immediately after an SRE is recognized by the Department; rather, an SRE would probably recognize additional programs each year so that by the end of its tenth year, the SRE will have recognized 32 programs. For purposes of this analysis, the Department estimates that an SRE would recognize 10 new Industry Programs in its first year as an SRE, 8 new Industry Programs in its second year, 5 new Industry Programs in its third year, 3 new Industry Programs in its fourth year, and 1 new Industry Program per year in its fifth through tenth years.

Based on these assumptions, the number of new Industry Programs in Year 1 is estimated to be 2,030 (= 203 new SREs in Year 1 × 10 new Industry Programs per SRE). The number of new Industry Programs in Year 2 is estimated to be 1,724 [= (203 new SREs in Year 1 × 8 new Industry Programs per SRE) + (10 new SREs in Year 2 × 10 new Industry Programs per SRE)]. As explained above, the Department assumes that 90 percent of SREs would undergo the Department's process for continued recognition, so in Year 6 the estimated number of new Year 1 SREs would shrink to 183 (= 203 new SREs in Year 1 × 90%). Accordingly, the number of new Industry Programs in Year 6 is estimated to be 707 [= (183 Year 1 SREs with continued recognition × 1 new Industry Programs per SRE) + (10 new SREs in Year 2 × 1 new Industry Programs per SRE) + (11 new SREs in Year 3 × 3 new Industry Programs per SRE) + (11 new SREs in Year 4 × 5 new Industry Programs per SRE) + (12 new SREs in Year 5 × 8 new Industry Programs per SRE) + (33 new SREs in Year 6 × 10 new Industry Programs per SRE)].

The total number of Industry Programs per SRE equals the cumulative total of new Industry Programs per SRE. So, a new SRE in Year 1 is estimated to have recognized a total of 18 Industry Programs in Year 2 (= 10 new Industry Programs in Year 1 + 8 new Industry Programs in Year 2). Therefore, the total number of Industry Programs in Year 2 is estimated to be 3,754 [= (203 new SREs in Year 1 × 18 total Industry Programs per SRE) + (10 new SREs in Year 2 × 10 total Industry Programs per SRE)]. As explained above, the estimated number of new Year 1 SREs is expected to shrink to 183 in Year 6. Accordingly, the total number of Industry Programs in Year 6 is estimated to be 6,479 [= (183 Year 1 SREs with continued recognition × 28 total Industry Programs per SRE) + (10 new SREs in Year 2 × 27 total Industry Programs per SRE) + (11 new SREs in Year 3 × 26 total Industry Programs per SRE) + (11 new SREs in Year 4 × 23 total Industry Programs per SRE) + (12 new SREs in Year 5 × 18 total Industry Programs per SRE) + (33 new SREs in Year 6 × 10 total Industry Programs per SRE)].

Exhibit 3 presents the projected number of Industry Programs over the 10-year analysis period.

| Exhibit 3: Projected Number of Industry Programs | | | | |
|---|---|---|---|---|
| Year | New Industry Programs per SRE | Total New Industry Programs | Total Industry Programs per SRE | Total Industry Programs |
| 1 | 10 | 2,030 | 10 | 2,030 |
| 2 | 8 | 1,724 | 18 | 3,754 |
| 3 | 5 | 1,205 | 23 | 4,959 |
| 4 | 3 | 857 | 26 | 5,816 |
| 5 | 1 | 496 | 27 | 6,312 |
| 6 | 1 | 707 | 28 | 6,479 |
| 7 | 1 | 700 | 29 | 7,152 |
| 8 | 1 | 676 | 30 | 7,801 |
| 9 | 1 | 663 | 31 | 8,437 |
| 10 | 1 | 653 | 32 | 9,063 |

c. Compensation Rates

The Department anticipates that the bulk of the workload for private sector workers would be performed by employees in occupations similar to the occupation titled ''Training and Development Managers'' in the Standard Occupational Classification System. According to the Department's Bureau of Labor Statistics (BLS), the mean hourly wage rate for Training and Development Managers in May 2017 was $56.58.[31] For this analysis, the Department used a fringe benefits rate of 46 percent [32] and an overhead rate of 54 percent,[33] resulting in a fully loaded hourly compensation rate for Training and Development Managers of $113.16 [= $56.58 + ($56.58 × 46%) + ($56.58 × 54%)].

The compensation rate for the Administrator of the Department's Office of Apprenticeship is based on the salary of a Federal employee at Level IV of the Senior Executive Service, which is $164,200 per annum; [34] the corresponding hourly base pay for an SES at this level is $78.94 (= $164,200 ÷ 2,080 hours). The Department used a fringe benefits rate of 69 percent [35] and an overhead rate of 54 percent, resulting in a fully loaded hourly compensation rate for the Administrator of $176.04 [= $78.94 + ($78.94 × 69%) + ($78.94 × 54%)].

The compensation rate for a Program Analyst in the Department's Office of Apprenticeship was estimated using the midpoint (Step 5) for Grade 13 of the General Schedule, which is $52.66 in the Washington, DC, locality area.[36] The Department used a fringe benefits rate of 69 percent and an overhead rate of 54 percent, resulting in a fully loaded hourly compensation rate for Program Analysts of $117.44 [= $52.66 + ($52.66 × 69%) + ($52.66 × 54%)].

The compensation rate for an Administrative Law Judge is based on the salary of a Federal Administrative Law Judge at AL–3 Rate F, which is $174,500 per annum; [37] the corresponding hourly base pay for an Administrative Law Judge at this level is $83.89 (= $174,500 ÷ 2,080 hours). The Department used a fringe benefits rate of 69 percent and an overhead rate of 54 percent, resulting in a fully loaded hourly compensation rate for an Administrative Law Judge of $187.07 [= $83.89 + ($83.89 × 69%) + ($83.89 × 54%)].

The compensation rate for a Staff Attorney in the Department's Office of Administrative Law Judges was estimated using the highest level (Step 10) for Grade 15 of the General Schedule, which is $78.68 in the Washington, DC, locality area.[38] The Department used a fringe benefits rate of 69 percent and an overhead rate of 54 percent, resulting in a fully loaded hourly compensation rate for Staff Attorneys of $175.46 [= $78.68 + ($78.68 × 69%) + ($78.68 × 54%)].

The compensation rates for a Legal Assistant and Law Clerk in the Department's Office of Administrative Law Judges were estimated using the midpoint (Step 5) for Grade 11 of the General Schedule, which is $36.95 in the Washington, DC, locality area.[39] The Department used a fringe benefits rate of 69 percent and an overhead rate of 54 percent, resulting in a fully loaded hourly compensation rate for Legal Assistants and Law Clerks of $82.40 [= $36.95 + ($36.95 × 69%) + ($36.95 × 54%)].

The compensation rate for a Paralegal in the Department's Office of Administrative Law Judges was estimated using the midpoint (Step 5) for Grade 7 of the General Schedule, which is $24.96 in the Washington, DC, locality area.[40] The Department used a fringe benefits rate of 69 percent and an overhead rate of 54 percent, resulting in a fully loaded hourly compensation rate

[31] Source: Bureau of Labor Statistics, Occupational Employment Statistics, May 2017, *https://www.bls.gov/oes/2017/may/oes113131.htm*.

[32] Source: Bureau of Labor Statistics, Employer Costs for Employee Compensation, *https://www.bls.gov/ncs/data.htm*. Wages and salaries averaged $24.26 per hour worked in 2017, while benefit costs averaged $11.26, which is a benefits rate of 46 percent.

[33] Source: U.S. Department of Health and Human Services, *Guidelines for Regulatory Impact Analysis* (2016), *https://aspe.hhs.gov/system/files/pdf/242926/HHS_RIAGuidance.pdf*. In its guidelines, HHS states, ''as an interim default, while HHS conducts more research, analysts should assume overhead costs (including benefits) are equal to 100 percent of pre-tax wages.'' HHS explains that 100 percent is roughly the midpoint between 46 and 150 percent, with 46 percent based on ECEC data that suggest benefits average 46 percent of wages and salaries, and 150 percent based on the private sector ''rule of thumb'' that fringe benefits plus overhead equal 150 percent of wages. To isolate the overhead costs from HHS's 100 percent assumption, the Department subtracted the 46 percent benefits rate that HHS references, resulting in an overhead rate of approximately 54 percent.

[34] Source: Office of Personnel Management, Rates of Basic Pay for the Executive Schedule, *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/EX.pdf*.

[35] Source: Congressional Budget Office, ''Comparing the Compensation of Federal and Private-Sector Employees, 2011 to 2015,'' April 2017, *www.cbo.gov/publication/52637*. The wages of Federal workers averaged $38.30 per hour over the study period, while the benefits averaged $26.50 per hour, which is a benefits rate of 69 percent.

[36] Source: Office of Personnel Management, General Schedule (GS) Locality Pay Tables, *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/DCB_h.pdf*.

[37] Source: Office of Personnel Management, Administrative Law Judges Locality Rates of Pay, *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/ALJ_LOC.pdf*.

[38] Source: Office of Personnel Management, General Schedule (GS) Locality Pay Tables, *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/DCB_h.pdf*.

[39] *Id.*

[40] *Id.*

for Paralegals of $55.66 [= $24.96 + ($24.96 × 69%) + ($24.96 × 54%)].

The Department used the hourly compensation rates presented in Exhibit 4 throughout this analysis to estimate the labor costs for each proposed provision.

**Exhibit 4: Compensation Rates**

| Occupation | Grade Level | Base Hourly Wage Rate | Fringe Benefits Rate | Overhead Rate | Hourly Compensation Rate |
|---|---|---|---|---|---|
| ***Private Sector Employees*** | | | | | |
| Training and Development Manager | N/A | $56.58 | 46% | 54% | $113.16 |
| ***Federal Government Employees*** | | | | | |
| Office of Apprenticeship Administrator | SES, Level 4 | $78.94 | 69% | 54% | $176.04 |
| Program Analyst | GS-13, Step 5 | $52.66 | 69% | 54% | $117.44 |
| Administrative Law Judge | AL-3, Rate F | $83.89 | 69% | 54% | $187.07 |
| Staff Attorney | GS-15, Step 10 | $78.68 | 69% | 54% | $175.46 |
| Legal Assistant | GS-11, Step 5 | $36.95 | 69% | 54% | $82.40 |
| Law Clerk | GS-11, Step 5 | $36.95 | 69% | 54% | $82.40 |
| Paralegal | GS-7, Step 5 | $24.96 | 69% | 54% | $55.66 |

4. Subject-by-Subject Analysis

The Department's subject-by-subject analysis covers the estimated costs of the proposed rule. The hourly time burdens and other estimates used to quantify the costs are largely based on the Department's experience with the registered apprenticeship program.

a. Costs

(1) Rule Familiarization

When the proposed rule takes effect, prospective SREs would need to familiarize themselves with the new regulation, thereby incurring a one-time cost. To estimate the cost of rule familiarization for the 10-year period of this analysis, the Department multiplied the projected number of new SRE applications in each year by the estimated time to review the rule (2 hours) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of new SRE applications in Year 1 is 270, so the estimated Year 1 cost is $61,106 (= 270 new SRE applications × 2 hours × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at $11,032 at a discount rate of 3 percent and $12,059 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $94,109 at a discount rate of 3 percent and $84,698 at a discount rate of 7 percent.

In addition, prospective Industry Programs would need to familiarize themselves with elements of the new rule. To estimate the cost of rule familiarization for Industry Programs, the Department multiplied the projected number of new Industry Programs in each year by the estimated time to review the rule (1 hour) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of new Industry Programs in Year 1 is 2,030, so the estimated Year 1 cost is $229,715 (= 2,030 new Industry Programs × 1 hour × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at $113,779 at a discount rate of 3 percent and $119,017 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $970,559 at a discount rate of 3 percent and $835,928 at a discount rate of 7 percent.

The Department seeks comment on whether additional entities should be included in its cost estimates for rule familiarization.

(2) SRE Applications

To become an SRE, an entity would need to submit an application to the Department, and then the Administrator would determine whether the entity is qualified to be an SRE. The proposed application form titled ''Industry-Recognized Apprenticeship Programs Standards Recognition Entity Information'' contains six sections. The estimated costs for completing each section are detailed below.

i. Section I—Standards Recognition Entity Identifying Information

The estimated average response time for a prospective SRE to provide the identifying information requested in Section I is approximately 2 hours, which includes the time to gather and attach the documentation for this section. To estimate the costs for completing Section I over the 10-year analysis period, the Department multiplied the projected number of SRE applications in each year by the estimated time to complete Section I (2 hours) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of SRE applications in Year 1 is 270, so the estimated Year 1 cost is $61,106 (= 270 SRE applications × 2 hours × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at $15,860 at a discount rate of 3 percent and $16,655 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $135,288 at a discount rate of 3 percent and $116,981 at a discount rate of 7 percent.

ii. Section II—Capabilities and Experience of the Standards Recognition Entity

The estimated average response time for a prospective SRE to describe its operations, capabilities, experience, and qualifications to be an SRE is approximately 2 hours, including the time to gather the necessary documentation. To estimate the costs for completing Section II over the 10-year analysis period, the Department multiplied the projected number of SRE applications in each year by the estimated time to complete Section II (2 hours) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of SRE applications in Year 1 is 270, so the estimated Year 1 cost is $61,106 (= 270 SRE applications × 2 hours × $113.16

per hour). The annualized cost over the 10-year analysis period is estimated at $15,860 at a discount rate of 3 percent and $16,655 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $135,288 at a discount rate of 3 percent and $116,981 at a discount rate of 7 percent.

iii. Section III—Evaluating and Monitoring Elements of a High-Quality Apprenticeship Program

The estimated average response time for a prospective SRE to provide information regarding the elements of the Industry Programs it would recognize is approximately 16 hours, including the time to gather the necessary documentation. To estimate the costs for completing Section III over the 10-year analysis period, the Department multiplied the projected number of SRE applications in each year by the estimated time to complete Section III (16 hours) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of SRE applications in Year 1 is 270, so the estimated Year 1 cost is $488,851 (= 270 SRE applications × 16 hours × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at $126,879 at a discount rate of 3 percent and $133,243 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $1,082,306 at a discount rate of 3 percent and $935,845 at a discount rate of 7 percent.

iv. Section IV—Policies and Procedures

The estimated average response time for a prospective SRE to provide information concerning its proposed policies and procedures for recognizing and quality-control of Industry Programs is approximately 13 hours, including the time to gather the necessary documentation. To estimate the costs for completing Section IV over the 10-year analysis period, the Department multiplied the projected number of SRE applications in each year by the estimated time to complete Section IV (13 hours) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of SRE applications in Year 1 is 270, so the estimated Year 1 cost is $397,192 (= 270 SRE applications × 13 hours × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at $103,089 at a discount rate of 3 percent and $108,260 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $879,374 at a discount rate of 3 percent and $760,374 at a discount rate of 7 percent.

v. Section V—Additional Representations of Program Quality by the Standards Recognition Entity

The Department estimates that it would take five minutes for each prospective SRE to read and attest to additional representations of program quality. To estimate the costs for completing Section V over the 10-year analysis period, the Department multiplied the projected number of SRE applications in each year by the estimated time to complete Section V (5 minutes) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of SRE applications in Year 1 is 270, so the estimated Year 1 cost is $2,444 (= 270 SRE applications × 5 minutes × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at $634 at a discount rate of 3 percent and $666 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $5,412 at a discount rate of 3 percent and $4,679 at a discount rate of 7 percent.

vi. Section VI—Attestation

The Department estimates that it would take five minutes for each prospective SRE to review the application for completeness and to sign it. To estimate the costs for completing Section VI over the 10-year analysis period, the Department multiplied the projected number of SRE applications in each year by the estimated time to complete Section VI (5 minutes) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of SRE applications in Year 1 is 270, so the estimated Year 1 cost is $2,444 (= 270 SRE applications × 5 minutes × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at $634 at a discount rate of 3 percent and $666 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $5,412 at a discount rate of 3 percent and $4,679 at a discount rate of 7 percent.

(3) Resubmitting an Application

If a prospective SRE is denied recognition, it may resubmit its application after remedying any deficiencies. For purposes of this analysis, the Department estimates that approximately 30 percent of applications would be denied on the first attempt, and that 50 percent of the denied applications would be resubmitted after the deficiencies have been addressed, which means 15 percent of all applications would be resubmitted. The Department estimates that remedying the deficiencies and resubmitting the application would take approximately 16 hours. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of SRE applications in each year by 15 percent, and then multiplied that product by the estimated time to resubmit the application (16 hours) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of SRE applications in Year 1 is 270, so the estimated Year 1 cost is $73,328 (= 270 SRE applications × 15% × 16 hours × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at $19,032 at a discount rate of 3 percent and $19,986 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $162,346 at a discount rate of 3 percent and $140,377 at a discount rate of 7 percent.

(4) Request for Administrative Review of Denial

If a prospective SRE is denied recognition, it may request administrative review by the Department's Office of Administrative Law Judges. For purposes of this analysis, the Department estimates that approximately 1 percent of all applications would request administrative review and that filing a request for administrative review would take approximately 60 hours. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of SRE applications in each year by 1 percent, and then multiplied that product by the estimated time to file a request for administrative review (60 hours) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of SRE applications in Year 1 is 270, so the estimated Year 1 cost is $18,332 (= 270 SRE applications × 1% × 60 hours × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at $3,593 at a discount rate of 3 percent and $3,895 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $30,649 at a discount rate of 3 percent and $27,357 at a discount rate of 7 percent.

(5) Notification of Substantive Changes by SRE

In accordance with § 29.21(c)(2), an SRE would need to notify the Administrator and provide all related material if it makes a substantive change to its processes or seeks to recognize Industry Programs in additional industries or occupational areas. The Department estimates that approximately 50 percent of SREs would make a substantive change each year and that complying with this proposed provision would take approximately 10 hours. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of SREs in each year by 50 percent, and then multiplied that product by the estimated time to comply with this proposed provision (10 hours) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of SREs in Year 1 is 203, so the estimated Year 1 cost is $114,857 (= 203 SREs × 50% × 10 hours × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at $142,797 at a discount rate of 3 percent and $140,632 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $1,218,091 at a discount rate of 3 percent and $987,737 at a discount rate of 7 percent.

(6) Recognition or Rejection of Apprenticeship Programs Seeking Recognition

In accordance with paragraph 29.22(a)(1), an SRE would need to recognize or reject a prospective Industry Program in a timely manner. Moreover, in accordance with § 29.22(b), an SRE would need to validate its Industry Programs' compliance with the requirements listed in § 29.22(a)(4) when the SRE provides the Administrator with notice of recognition of an Industry Program. The Department estimates that complying with these two proposed provisions would take approximately 12 hours per program seeking recognition per year. The Department used the estimated number of new Industry Programs as a proxy for this calculation, anticipating that the vast majority of programs seeking recognition would be recognized. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of new Industry Programs in each year by the estimated time to comply with this proposed provision (12 hours) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of new Industry Programs in Year 1 is 2,030, so the estimated Year 1 cost is $2,756,578 (= 2,030 Industry Programs × 12 hours × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at $1,365,350 at a discount rate of 3 percent and $1,428,208 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $11,646,711 at a discount rate of 3 percent and $10,031,136 at a discount rate of 7 percent.

(7) Inform Administrator of Industry Program Recognition or Termination

In accordance with § 29.22(a)(2), an SRE would need to inform the Administrator when it has recognized or terminated the recognition of an Industry Program. The Department estimates that complying with this proposed provision would take approximately 30 minutes per year. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of SREs in each year by the estimated time to comply with this proposed provision (30 minutes) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of SREs in Year 1 is 203, so the estimated Year 1 cost is $11,486 (= 203 SREs × 30 minutes × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at $14,280 at a discount rate of 3 percent and $14,063 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $121,809 at a discount rate of 3 percent and $98,774 at a discount rate of 7 percent.

(8) Provision of Data or Information to the Administrator

In accordance with § 29.22(a)(3), an SRE would need to provide to the Administrator any data or information the Administrator is expressly authorized to collect. The Department estimates that approximately 10 percent of SREs would need to provide additional data or information each year and that complying with this proposed provision would take approximately 2 hours per year. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of SREs in each year by 10 percent, and then multiplied that product by the estimated time to comply with this proposed provision (2 hours) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of SREs in Year 1 is 203, so the estimated Year 1 cost is $4,594 (= 203 SREs × 10% × 2 hours × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at $5,712 at a discount rate of 3 percent and $5,625 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $48,724 at a discount rate of 3 percent and $39,509 at a discount rate of 7 percent.

(9) SREs' Disclosure of Credentials That Apprentices Will Earn

In accordance with § 29.22(c), an SRE would need to disclose the credential(s) that apprentices will earn during their successful participation in or upon completion of an Industry Program. An SRE could disclose these credentials on its website, for example. The Department estimates that complying with this proposed provision would take approximately 30 minutes per year. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of SREs in each year by the estimated time to comply with this proposed provision (30 minutes) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of SREs in Year 1 is 203, so the estimated Year 1 cost is $11,486 (= 203 SREs × 30 minutes × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at $14,280 at a discount rate of 3 percent and $14,063 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $121,809 at a discount rate of 3 percent and $98,774 at a discount rate of 7 percent.

(10) SREs' Quality Control of Industry Programs

In accordance with § 29.22(h), an SRE would need to remain in an ongoing quality-control relationship with the Industry Programs it has recognized. The Department estimates that complying with this proposed provision would take approximately 80 hours per year. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of SREs in each year by the estimated time to comply with this proposed provision (80 hours) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of SREs in Year 1 is 203, so the estimated Year 1 cost is $1,837,718 (= 203 SREs × 80 hours × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at

$2,284,760 at a discount rate of 3 percent and $2,250,106 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $19,489,464 at a discount rate of 3 percent and $15,803,800 at a discount rate of 7 percent.

(11) Provision of Performance Data on Industry Programs

In accordance with § 29.22(j), an SRE must make publicly available performance data for each Industry Program it recognizes. The Department estimates that complying with this proposed provision would take approximately 30 hours per year. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of SREs in each year by the estimated time to comply with this proposed provision (30 hours) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of SREs in Year 1 is 203, so the estimated Year 1 cost is $689,144 (= 203 SREs × 30 hours × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at $856,785 at a discount rate of 3 percent and $843,790 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $7,308,549 at a discount rate of 3 percent and $5,926,425 at a discount rate of 7 percent.

In order for an SRE to comply with these provisions, the Industry Programs it recognizes would need to provide the pertinent performance data. The Department estimates that it would take Industry Programs approximately 3 hours per year to collect and provide the relevant data. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of Industry Programs in each year by 3 hours and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of Industry Programs in Year 1 is 2,030, so the estimated Year 1 cost is $689,144 (= 2,030 Industry Programs × 3 hours × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at $2,040,383 at a discount rate of 3 percent and $1,965,718 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $17,404,884 at a discount rate of 3 percent and $13,806,381 at a discount rate of 7 percent.

(12) Industry Programs' Disclosure of Wages to Apprentices

In accordance with § 29.22(a)(4)(vii), Industry Programs would need to provide a written notice to apprentices of what wages apprentices will receive and under what circumstances apprentices' wages will increase. The Department assumes that the vast majority of entities provide wage notifications to their employees as part of their regular business practices, so only about 10 percent of Industry Programs would incur this burden as an additional cost under this proposed rule. The Department estimates that it would take Industry Programs approximately 5 minutes per year to comply with this provision. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of Industry Programs in each year by 10 percent, and then multiplied that product by the estimated time to comply with this proposed provision (5 minutes) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of Industry Programs in Year 1 is 2,030, so the estimated Year 1 cost is $1,838 (= 2,030 Industry Programs × 10% × 5 minutes × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at $5,441 at a discount rate of 3 percent and $5,242 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $46,413 at a discount rate of 3 percent and $36,817 at a discount rate of 7 percent.

(13) Industry Programs' Disclosure of Ancillary Costs to Apprentices

In accordance with § 29.22(a)(4)(ix), Industry Programs would need to disclose any ancillary costs or expenses that will be charged to apprentices. The Department assumes that the vast majority of entities disclose ancillary costs or expenses to their employees as part of their regular business practices, so only about 10 percent of Industry Programs would incur this burden as an additional cost under this proposed rule. The Department estimates that it would take Industry Programs approximately 5 minutes per year to comply with this provision. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of Industry Programs in each year by 10 percent, and then multiplied that product by the estimated time to comply with this proposed provision (5 minutes) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour). For example, the projected number of Industry Programs in Year 1 is 2,030, so the estimated Year 1 cost is $1,838 (= 2,030 Industry Programs × 10% × 5 minutes × $113.16 per hour). The annualized cost over the 10-year analysis period is estimated at $5,441 at a discount rate of 3 percent and $5,242 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $46,413 at a discount rate of 3 percent and $36,817 at a discount rate of 7 percent.

(14) DOL Development of Online Application Form and Internal Review System

Before an entity could submit an application to become an SRE, the Department would first need to develop an online application form and a system for managing the internal review process. In addition to the first-year software and labor costs, the Department would also incur annual maintenance costs.

The Department estimates that the first-year software and labor costs to develop the online system would total $608,500. Contractor labor for developing the program and the application form would account for 20 percent of the total cost, contractor labor for developing a public website that would accept the applications and a private system for managing the internal review of the applications would account for 77 percent of the total cost, and material costs for software hosting and licensing would account for 3 percent of the total cost. The annualized cost over the 10-year analysis period is estimated at $69,257 at a discount rate of 3 percent and $80,969 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $590,777 at a discount rate of 3 percent and $568,692 at a discount rate of 7 percent.

With respect to annual maintenance, the Department estimates that the total for software and labor would be $125,000. Contractor labor to support maintenance of the online application form and case management system would account for 68 percent of the total cost, while material costs for software hosting and licensing fees would account for 32 percent of the total cost. The total cost over the 10-year analysis period is estimated at $1,066,275 at a discount rate of 3 percent and $877,948 at a discount rate of 7 percent.

(15) DOL Development of Online Resource for List of SREs and Industry Programs

Another online tool that would need to be developed by the Department would be an online resource for the list of SREs and Industry Programs. In addition to the first-year software and labor costs, the Department would also incur annual maintenance costs.

The Department estimates that the first-year software and labor costs to develop the online system would total $92,000. Contractor labor for developing the online resource would account for 98 percent of the total cost, while material costs for software hosting and licensing would account for 2 percent of the total cost. The annualized cost over the 10-year analysis period is estimated at $10,471 at a discount rate of 3 percent and $12,242 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $89,320 at a discount rate of 3 percent and $85,981 at a discount rate of 7 percent.

With respect to annual maintenance, the Department estimates that the total for software and labor would be $18,000. Contractor labor to support maintenance of the online list of SREs and Industry Programs would account for 68 percent of the total cost, while material costs for software hosting and licensing fees would account for 32 percent of the total cost. The total cost over the 10-year analysis period is estimated at $153,544 at a discount rate of 3 percent and $126,424 at a discount rate of 7 percent.

(16) DOL Review of SRE Applications

The following steps summarize the estimated costs that would be borne by the Department's Office of Apprenticeship in connection with processing and reviewing the application information provided by prospective SREs.

i. Step 1: Processing by Program Analysts

The Department anticipates that the initial intake, review, and analysis of the information in the application form would be conducted by a Program Analyst in the Office of Apprenticeship. The Department estimates that a Program Analyst would take an average of 1 hour to review and analyze the information. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of total SRE applications each year by the estimated time to process each application (1 hour) and by the hourly compensation rate for Program Analysts ($117.44 per hour). For example, the projected number of total SRE applications in Year 1 is 270, so the estimated Year 1 cost is $31,709 (= 270 SRE applications × 1 hour × $117.44 per hour). The annualized cost over the 10-year analysis period is estimated at $8,230 at a discount rate of 3 percent and $8,643 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $70,203 at a discount rate of 3 percent and $60,703 at a discount rate of 7 percent.

ii. Step 2: Panel Review

Applications that pass the initial review process by a Program Analyst would then be forwarded to a review panel consisting of one Program Analyst and two Federal contractors who would be Training and Development Managers. The three panelists would review each application and make a recommendation for recognition or denial to the Administrator. For purposes of this analysis, the Department estimates that 90 percent of applications would pass the initial review process by a Program Analyst and would be forwarded to the review panel.

The Department estimates that the Program Analyst on the review panel would take 8 hours to conduct a complete review of each application. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of total SRE applications each year by 90 percent, and then multiplied this product by the estimated time to review each application (8 hours) and by the hourly compensation rate for Program Analysts ($117.44 per hour). For example, the projected number of total SRE applications in Year 1 is 270, so the estimated Year 1 cost is $228,303 (= 270 SRE applications × 90% × 8 hours × $117.44 per hour). The annualized cost over the 10-year analysis period is estimated at $59,255 at a discount rate of 3 percent and $62,227 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $505,459 at a discount rate of 3 percent and $437,059 at a discount rate of 7 percent.

The Department estimates that the two Training and Development Managers on the review panel would take 8 hours each to conduct a complete review of each application. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of total SRE applications each year by 90 percent, and then multiplied this product by the estimated time to review each application (8 hours) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour) and by 2 to account for both Federal contractors on the review panel. For example, the projected number of total SRE applications in Year 1 is 270, so the estimated Year 1 cost is $439,966 (= 270 SRE applications × 90% × 8 hours × $113.16 per hour × 2 Training and Development Managers). The annualized cost over the 10-year analysis period is estimated at $114,191 at a discount rate of 3 percent and $119,919 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $974,075 at a discount rate of 3 percent and $842,261 at a discount rate of 7 percent.

iii. Step 3: Panel Meeting

The Department expects that the panel members would meet on a consistent basis to discuss their review findings for each application. The Department estimates that the Program Analyst on the review panel would spend 1 hour per application in meetings with the other panelists. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of total SRE applications each year by 90 percent, and then multiplied this product by the estimated time for meetings (1 hour) and by the hourly compensation rate for Program Analysts ($117.44 per hour). For example, the projected number of total SRE applications in Year 1 is 270, so the estimated Year 1 cost is $28,538 (= 270 SRE applications × 90% × 1 hour × $117.44 per hour). The annualized cost over the 10-year analysis period is estimated at $7,407 at a discount rate of 3 percent and $7,778 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $63,182 at a discount rate of 3 percent and $54,632 at a discount rate of 7 percent.

The Department estimates that the two Training and Development Managers on the review panel would each spend 1 hour per application in meetings with the other panelists. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of total SRE applications each year by 90 percent, and then multiplied this product by the estimated time for meetings (1 hour) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour) and by 2 to account for both Federal contractors on the review panel. For example, the projected number of total SRE applications in Year 1 is 270, so the estimated Year 1 cost is $54,996 (= 270 SRE applications × 90% × 1 hour

× $113.16 per hour × 2 Training and Development Managers). The annualized cost over the 10-year analysis period is estimated at $14,274 at a discount rate of 3 percent and $14,990 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $121,759 at a discount rate of 3 percent and $105,283 at a discount rate of 7 percent.

iv. Step 4: Review by the Administrator

After the three panelists review the applications, the satisfactory applications would be forwarded to the Administrator for final review and approval. The Administrator would reach a final determination as to whether the entities should be recognized as SREs. The Department estimates that 70 percent of applications would be forwarded to the Administrator and that the Administrator would spend 15 minutes per application making a final decision. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of total SRE applications each year by 70 percent, and then multiplied this product by the estimated time for review by the Administrator (15 minutes) and by the hourly compensation rate for the Administrator ($176.04 per hour). For example, the projected number of total SRE applications in Year 1 is 270, so the estimated Year 1 cost is $8,318 (= 270 SRE applications × 70% × 15 minutes × $176.04 per hour). The annualized cost over the 10-year analysis period is estimated at $2,159 at a discount rate of 3 percent and $2,267 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $18,416 at a discount rate of 3 percent and $15,924 at a discount rate of 7 percent.

v. Notification of Recognition or Denial of Recognition

Finally, the Office of Apprenticeship would notify each applicant of the results of the review process. Each applicant would either be recognized as an SRE or be denied recognition. The Department estimates that a Program Analyst would spend an average of 1 hour notifying each applicant. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of total SRE applications each year by the estimated time for notification (1 hour) and by the hourly compensation rate for Program Analysts ($117.44 per hour). For example, the projected number of total SRE applications in Year 1 is 270, so the estimated Year 1 cost is $31,709 (= 270 SRE applications × 1 hour × $117.44 per hour). The annualized cost over the 10-year analysis period is estimated at $8,230 at a discount rate of 3 percent and $8,643 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $70,203 at a discount rate of 3 percent and $60,703 at a discount rate of 7 percent.

(17) DOL Review of Resubmitted SRE Applications

For purposes of this analysis, the Department estimates that approximately 30 percent of applications would be denied on the first attempt, and that 50 percent of the denied applications would be resubmitted after the deficiencies have been addressed, which means 15 percent of all applications would be resubmitted. The Department would then follow the same five steps for reviewing the resubmitted applications.

i. Resubmission Step 1: Processing by Program Analysts

The Department estimates that a Program Analyst would take 1 hour to process the information in a resubmitted application. To estimate the costs over the 10-year analysis period for Step 1 of the resubmission review process, the Department multiplied the projected number of total SRE applications each year by 15 percent, and then multiplied this product by the estimated time to process each application (1 hour) and by the hourly compensation rate for Program Analysts ($117.44 per hour). For example, the projected number of total SRE applications in Year 1 is 270, so the estimated Year 1 cost is $4,756 (= 270 SRE applications × 15% × 1 hour × $117.44 per hour). The annualized cost over the 10-year analysis period is estimated at $1,234 at a discount rate of 3 percent and $1,296 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $10,530 at a discount rate of 3 percent and $9,105 at a discount rate of 7 percent.

ii. Resubmission Step 2: Panel Review

The Department estimates that the Program Analyst on the review panel would take 8 hours to conduct a complete review of each resubmitted application. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of total SRE applications each year by 15 percent, and then multiplied this product by the estimated time to review each application (8 hours) and by the hourly compensation rate for Program Analysts ($117.44 per hour). For example, the projected number of total SRE applications in Year 1 is 270, so the estimated Year 1 cost is $38,051 (= 270 SRE applications × 15% × 8 hours × $117.44 per hour). The annualized cost over the 10-year analysis period is estimated at $9,876 at a discount rate of 3 percent and $10,371 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $84,243 at a discount rate of 3 percent and $72,843 at a discount rate of 7 percent.

The Department estimates that the two Training and Development Managers on the review panel would take 8 hours each to conduct a complete review of each resubmitted application. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of total SRE applications each year by 15 percent, and then multiplied this product by the estimated time to review each application (8 hours) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour) and by 2 to account for both Federal contractors on the review panel. For example, the projected number of total SRE applications in Year 1 is 270, so the estimated Year 1 cost is $73,328 (= 270 SRE applications × 15% × 8 hours × $113.16 per hour × 2 Training and Development Managers). The annualized cost over the 10-year analysis period is estimated at $19,032 at a discount rate of 3 percent and $19,986 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $162,346 at a discount rate of 3 percent and $140,377 at a discount rate of 7 percent.

iii. Resubmission Step 3: Panel Meeting

The Department estimates that the Program Analyst on the review panel would spend 1 hour per resubmitted application in meetings with the other panelists. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of total SRE applications each year by 15 percent, and then multiplied this product by the estimated time for meetings (1 hour) and by the hourly compensation rate for Program Analysts ($117.44 per hour). For example, the projected number of total SRE applications in Year 1 is 270, so the estimated Year 1 cost is $4,756 (= 270 SRE applications × 15% × 1 hour × $117.44 per hour). The annualized cost over the 10-year analysis period is estimated at $1,234 at a discount rate of 3 percent and $1,296 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $10,530 at a discount rate of 3 percent

and $9,105 at a discount rate of 7 percent.

The Department estimates that the two Training and Development Managers on the review panel would each spend 1 hour per resubmitted application in meetings with the other panelists. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of total SRE applications each year by 15 percent, and then multiplied this product by the estimated time for meetings (1 hour) and by the hourly compensation rate for Training and Development Managers ($113.16 per hour) and by 2 to account for both Federal contractors on the review panel. For example, the projected number of total SRE applications in Year 1 is 270, so the estimated Year 1 cost is $9,166 (= 270 SRE applications × 15% × 1 hour × $113.16 per hour × 2 Training and Development Managers). The annualized cost over the 10-year analysis period is estimated at $2,379 at a discount rate of 3 percent and $2,498 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $20,293 at a discount rate of 3 percent and $17,547 at a discount rate of 7 percent.

iv. Resubmission Step 4: Review by the Administrator

For purposes of this analysis, the Department estimates that one-third of resubmitted applications would be forwarded to the Administrator, which equates to 5 percent of the total number of applications (= 15% of all applications × ⅓ forwarded to the Administrator). The Department further estimates that the Administrator would spend 15 minutes per resubmitted application making a final decision. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of total SRE applications each year by 5 percent, and then multiplied this product by the estimated time for review by the Administrator (15 minutes) and by the hourly compensation rate for the Administrator ($176.04 per hour). For example, the projected number of total SRE applications in Year 1 is 270, so the estimated Year 1 cost is $594 (= 270 SRE applications × 5% × 15 minutes × $176.04 per hour). The annualized cost over the 10-year analysis period is estimated at $154 at a discount rate of 3 percent and $162 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $1,315 at a discount rate of 3 percent and $1,137 at a discount rate of 7 percent.

v. Notification of Recognition or Denial of Recognition for Resubmitted Applications

The Department estimates that a Program Analyst would spend an average of 1 hour notifying each entity that resubmitted an application. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of total SRE applications each year by 15 percent, and then multiplied this product by the estimated time for notification (1 hour) and by the hourly compensation rate for Program Analysts ($117.44 per hour). For example, the projected number of total SRE applications in Year 1 is 270, so the estimated Year 1 cost is $4,756 (= 270 SRE applications × 15% × 1 hour × $117.44 per hour). The annualized cost over the 10-year analysis period is estimated at $1,234 at a discount rate of 3 percent and $1,296 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $10,530 at a discount rate of 3 percent and $9,105 at a discount rate of 7 percent.

(18) DOL Preparation of Administrative Record When a Denied Entity Requests Review

As explained earlier in this section, the Department estimates that approximately 1 percent of all applications would request administrative review of a denial. Within 30 calendar days of the filing of the request for administrative review, the Administrator would have to prepare an administrative record for submission to the Office of Administrative Law Judges. Based on its program experience, the Department estimates that preparing an administrative record would take a Program Analyst approximately 6 hours. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of SRE applications in each year by 1 percent, and then multiplied that product by the estimated time to prepare an administrative record (6 hours) and by the hourly compensation rate for Program Analysts ($117.44 per hour). For example, the projected number of SRE applications in Year 1 is 270, so the estimated Year 1 cost is $1,903 (= 270 SRE applications × 1% × 6 hours × $117.44 per hour). The annualized cost over the 10-year analysis period is estimated at $373 at a discount rate of 3 percent and $404 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $3,181 at a discount rate of 3 percent and $2,839 at a discount rate of 7 percent.

(19) Review of Administrator's Denial by Office of Administrative Law Judges

In accordance with § 29.30, a prospective SRE that is denied recognition may file a request for administrative review by an Administrative Law Judge. The Department estimates that it would take 8 hours for an Administrative Law Judge to review the administrative record submitted by the Office of Apprenticeship and conduct a hearing. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of SRE applications in each year by 1 percent, and then multiplied that product by the estimated time for an Administrative Law Judge to conduct a review (8 hours) and by the hourly compensation rate for Administrative Law Judges ($187.07 per hour). For example, the projected number of SRE applications in Year 1 is 270, so the estimated Year 1 cost is $4,041 (= 270 SRE applications × 1% × 8 hours × $187.07 per hour). The annualized cost over the 10-year analysis period is estimated at $792 at a discount rate of 3 percent and $859 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $6,756 at a discount rate of 3 percent and $6,030 at a discount rate of 7 percent.

Next, a Law Clerk in the Office of Administrative Law Judges would draft the proposed findings and the recommended decision based on the hearing. The Department estimates that this step of the process would take approximately 2 hours. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of SRE applications in each year by 1 percent, and then multiplied that product by the estimated time for a Law Clerk to draft the proposed findings and the recommended decision (2 hours) and by the hourly compensation rate for Law Clerks ($82.40 per hour). For example, the projected number of SRE applications in Year 1 is 270, so the estimated Year 1 cost is $445 (= 270 SRE applications × 1% × 2 hours × $82.40 per hour). The annualized cost over the 10-year analysis period is estimated at $87 at a discount rate of 3 percent and $95 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $744 at a discount rate of 3 percent and $664 at a discount rate of 7 percent.

In addition, a Paralegal in the Office of Administrative Law Judges would handle the tasks related to placing the

matter on the docket of cases. The Department estimates that this step of the process would take approximately 2 hours. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of SRE applications in each year by 1 percent, and then multiplied that product by the estimated time for a Paralegal to place the matter on the docket (2 hours) and by the hourly compensation rate for Paralegals ($55.66 per hour). For example, the projected number of SRE applications in Year 1 is 270, so the estimated Year 1 cost is $301 (= 270 SRE applications × 1% × 2 hours × $55.66 per hour). The annualized cost over the 10-year analysis period is estimated at $59 at a discount rate of 3 percent and $64 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $503 at a discount rate of 3 percent and $449 at a discount rate of 7 percent.

(20) Review of Administrator's Denial by Administrative Review Board

In accordance with § 29.30, any party may file exceptions to the Administrative Law Judge's recommended decision in the prior step. If the Administrative Review Board accepts a case for review, the three-judge panel of Administrative Law Judges would review the proposed findings and the recommended decision provided by the Administrative Law Judge in the prior step, and then render a final decision on the record. The Department estimates that the review and decision would take approximately 2 hours per Administrative Law Judge. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of SRE applications in each year by 1 percent, and then multiplied that product by the estimated time for each Administrative Law Judge to conduct the review (2 hours) and by the hourly compensation rate for Administrative Law Judges ($187.07 per hour) and by 3 Administrative Law Judges. For example, the projected number of SRE applications in Year 1 is 270, so the estimated Year 1 cost is $3,031 (= 270 SRE applications × 1% × 2 hours × $187.07 per hour × 3 Administrative Law Judges). The annualized cost over the 10-year analysis period is estimated at $594 at a discount rate of 3 percent and $644 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $5,067 at a discount rate of 3 percent and $4,523 at a discount rate of 7 percent.

Next, a Staff Attorney for the Administrative Review Board would draft a final decision for the Board. The Department estimates that this step of the process would take approximately 6 hours. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of SRE applications in each year by 1 percent, and then multiplied that product by the estimated time for a Staff Attorney to draft a final decision (6 hours) and by the hourly compensation rate for Staff Attorneys ($175.46 per hour). For example, the projected number of SRE applications in Year 1 is 270, so the estimated Year 1 cost is $2,842 (= 270 SRE applications × 1% × 6 hours × $175.46 per hour). The annualized cost over the 10-year analysis period is estimated at $557 at a discount rate of 3 percent and $604 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $4,752 at a discount rate of 3 percent and $4,242 at a discount rate of 7 percent.

In addition, a Legal Assistant would perform docket filing and other administrative tasks associated with the issuance of the Administrative Review Board's final decision. The Department estimates that this step of the process would take approximately 2 hours. To estimate these costs over the 10-year analysis period, the Department multiplied the projected number of SRE applications in each year by 1 percent, and then multiplied that product by the estimated time for a Legal Assistant to perform administrative duties (2 hours) and by the hourly compensation rate for Legal Assistant ($82.40 per hour). For example, the projected number of SRE applications in Year 1 is 270, so the estimated Year 1 cost is $445 (= 270 SRE applications × 1% × 2 hours × $82.40 per hour). The annualized cost over the 10-year analysis period is estimated at $87 at a discount rate of 3 percent and $95 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $744 at a discount rate of 3 percent and $664 at a discount rate of 7 percent.

b. Payments From Industry Programs to SREs

The Department anticipates that SREs may charge a fee to the Industry Programs that they recognize, though such a fee is neither required nor prohibited under this proposed rule. Such a fee would help SREs offset the costs described earlier in this section.

SREs' fees would likely vary widely, so the Department explored different ways to estimate those fees. The Department began by looking at the application and annual fees charged by entities that focus primarily on setting standards, thinking it would make sense to base its estimate on the fees currently charged by such entities. However, after further reflection, the Department decided that such entities are not representative of the full range of potential SREs, which may include but are not limited to trade, industry, and employer groups or associations; educational institutions; state and local government agencies or entities; non-profit organizations; unions; joint labor-management organizations; and partnerships of multiple entities. Entities that focus primarily or exclusively on standards-setting are not representative of the variety of entities likely to apply to become SREs, so the fees charged by such entities would not be representative of the fees that may (or may not) be charged by other types of entities.

Therefore, the Department decided that a better approach to estimating SRE fees would be to develop an estimate based on the quantified costs in this analysis. To approximate a break-even point between SRE costs and SRE fees under this proposed rule, the Department estimates an average initial application fee of $3,000 and an average annual fee of $500. The remaining difference between SRE costs and SRE fees reflects the unquantified costs under this proposed rule.

Since the payment of SRE fees by Industry Programs would help SREs recoup their costs under this proposed rule, and since those costs have already been quantified in the economic analysis above, the potential payments from Industry Programs to SREs are not included in Exhibits 1 or 5.

5. Summary of Costs

Exhibit 5 presents a summary of the quantifiable costs associated with this proposed rule. The Department invites comment on all of the costs outlined above.

| Exhibit 5: Estimated Costs (2017 dollars) | |
|---|---|
| Year | Costs |
| 1 | $9,329,761 |
| 2 | $6,870,352 |
| 3 | $6,662,757 |
| 4 | $6,595,751 |
| 5 | $6,399,563 |
| 6 | $8,548,196 |
| 7 | $7,406,664 |
| 8 | $7,784,746 |
| 9 | $8,182,149 |
| 10 | $8,586,126 |
| | |
| Annualized, 3% discount rate, 10 years | $7,619,790 |
| Annualized, 7% discount rate, 10 years | $7,604,142 |
| | |
| Total, 3% discount rate, 10 years | $64,998,357 |
| Total, 7% discount rate, 10 years | $53,408,309 |

6. Nonquantifiable Costs

This section addresses the nonquantifiable costs of the proposed rule. The Department invites commenters to provide feedback on the costs identified in this section and to provide data that would facilitate the calculation of these costs.

a. SRE Costs

Under proposed § 29.27, the Administrator may initiate a review of an SRE after receiving a complaint about the SRE or information indicating that the SRE is no longer capable of continuing in its role. If a review is initiated, the SRE would have an opportunity to provide information to the Department. Since this is a new program, the Department does not have a reasonable way to estimate the number of complaints it may receive or reviews it may initiate. Consequently, there is insufficient information to quantify the potential costs of this provision.

Additionally, proposed § 29.28 explains the process through which the Administrator may suspend an SRE. A suspended SRE would have an opportunity to implement remedial action or request administrative review. The Department does not have a reasonable way to estimate the number of SREs that would be suspended, nor the percentage of suspended SREs that would implement remedial action or make a request for administrative review. For these reasons, the Department is unable to quantity the potential costs of this provision.

b. Industry Program Costs

A 2016 study published by the Department of Commerce found that apprenticeship programs vary significantly in length and cost. The shortest program in the study lasted one year, while the longest lasted more than four years. The costs of the programs in the study ranged from $25,000 to $250,000 per apprentice. Importantly, compensation costs for apprentices were the major cost of the programs. Other costs included program start-up, educational materials, mentors' time, and overhead. The authors noted that the ultimate goal of an apprenticeship program is for companies to fill skilled jobs, and apprenticeships are only one way to do so. Many of the costs of an apprenticeship program would still be incurred if the company filled the job through another method, such as hiring an already-trained worker, contracting a temporary worker, or increasing the hours of existing staff.[41] In analyzing the costs of an apprenticeship program, it is essential to consider how an employer would fill the position in the absence of apprentices. The costs of an apprenticeship program should be assessed within the context of the employer's alternative hiring options. The Department notes that such options may be limited given the skills gap that this regulation seeks to help address. Yet, data are not available for the Department to conduct such an analysis. Consequently, the Department was unable to quantify the potential costs of apprenticeship programs that would be established under this proposed rule. The Department seeks comment on potential costs for Industry Programs.

Additionally, under § 29.25, an Industry Program would be able to become a registered apprenticeship program under an expedited process by providing information to the Administrator that would enable to the Administrator to determine whether the Industry Program meets the requirements of a registered apprenticeship program. The Department does not have a reasonable way to estimate the percent of Industry Programs that would opt to undergo this expedited process. Consequently, there is insufficient information to quantify the potential costs of this provision to Industry Programs or the Department.

c. Government Costs

In addition to the SRE and Industry Program costs that cannot be quantified,

[41] Susan Helper, Ryan Noonan, Jessica R. Nicholson, and David Langdon, "The Benefits and Costs of Apprenticeship: A Business Perspective," Case Western Reserve University and U.S. Department of Commerce (November 2016), *https://files.eric.ed.gov/fulltext/ED572260.pdf.*

the proposed rule is also expected to incur costs to the Department. To begin with, proposed § 29.27 requires the Administrator to follow specific steps if the Administrator decides to initiate a review of an SRE after receiving a complaint or information indicating that the SRE is no longer capable of continuing in its role. Those steps include notifying the SRE of the review, conducting the review, and notifying the SRE of the decision to either take no action against the SRE or suspend the SRE. Since this is a new program, the Department does not have a reasonable way to estimate the number of complaints it may receive or reviews it may initiate. Hence, there is insufficient information to quantify the potential costs of this proposed section.

Similarly, proposed § 29.28 requires the Administrator to take certain actions if the Administrator decides to suspend an SRE. For example, the Administrator must publish the SRE's suspension on the Department's publicly available list of SREs and Industry Programs. If the SRE commits itself to remedial actions, the Administrator must determine whether the SRE has remedied the identified areas of nonconformity. If the SRE makes a request for administrative review, the Administrator must prepare an administrative record for submission to the Office of Administrative Law Judges. Finally, if the SRE does not commit itself to remedial action or request administrative review, the Administrator would derecognize the SRE. Since this is a new program, the Department does not have a reasonable way to estimate the proportion of SREs that would be suspended by the Administrator. Consequently, there is insufficient information to quantify the potential costs of this proposed provision.

Under proposed § 29.30(a), the Administrator must prepare an administrative record for submission to the Administrative Law Judge after receiving a suspended SRE's request for administrative review. Without a reasonable way to estimate the number of suspended SREs or the share of suspended SREs that would request administrative review, the Department is unable to quantify this cost.

In addition to the costs borne by the Office of Apprenticeship, costs would also be borne by the Office of Administrative Law Judges and the Administrative Review Board. The Chief Administrative Law Judge must designate an Administrative Law Judge to review a suspended SRE's request for administrative review. Within 20 days of the receipt of the Administrative Law Judge's recommended decision, any party may file exceptions with the Administrative Review Board, which must decide any case it accepts within 180 days of the close of the record. The Department does not have a reasonable way to estimate the number of suspended SREs nor the share that would request administrative review; therefore, the Department is unable to quantify this cost.

7. Nonquantifiable Transfer Payments

As mentioned above, a major cost of apprenticeship programs is the compensation costs of apprentices.[42] For the purposes of a Regulatory Impact Analysis, an increase in wages is not considered a cost; rather, an increase in wages is considered a ''transfer payment.'' According to OMB Circular A–4, transfers occur when wealth or income is redistributed without any direct change in aggregate social welfare.[43] Therefore, an increase in wages is categorized as a transfer payment from the employer to the worker rather than a cost to the employer or a benefit to the worker.

On aggregate, the Department does not expect a sizable transfer from employers to workers in the immediate context of this proposed rule. Some jobs filled by apprentices would likely be filled by non-apprentices in the absence of an Industry Program. And as with other workers, apprentices must be paid at least the applicable Federal, State, or local minimum wage. Accordingly, the presence of an Industry Program is unlikely to produce a sizable wage increase (or decrease) relative to what the employer would otherwise pay for a worker in that position. Some apprentices may be paid more than what non-apprentices would be paid, while others may be paid less. Therefore, on aggregate, the Department does not expect a measurable transfer payment under this proposed rule.

8. Regulatory Alternatives

OMB Circular A–4, which outlines best practices in regulatory analysis, directs agencies to analyze alternatives if such alternatives best satisfy the philosophy and principles of E.O. 12866. Accordingly, the Department considered two regulatory alternatives related to paragraph 29.22(j). Under the first alternative, SREs would be required to make performance data publicly available every five years rather than annually. Under the second alternative, SREs would be required to make performance data publicly available every quarter rather than annually. Both alternatives are discussed in more detail below.

For the first alternative, the Department considered requiring SREs to make publicly available the performance data for each Industry Program it recognizes on a five year reporting cycle rather than on an annual reporting cycle as proposed in paragraph 29.22(j). To estimate the reduction in costs under this alternative, the Department adjusted two of the calculations described in the Subject-by-Subject Analysis. First, the Department decreased from 3 hours to 36 minutes (= 3 hours ÷ 5 years) the time burden for Industry Programs to provide performance information to their SREs since the information would only need to be provided once every five years under this alternative. Second, the Department decreased from 30 to 6 hours (= 30 hours ÷ 5 years) the time burden for SREs to make the performance information publicly available. Exhibit 6 shows the estimated costs of the proposed rule under this alternative. Over the 10-year analysis period, the annualized costs are estimated at $5.4 million at a discount rate of 7 percent. In total, this alternative is estimated to result in costs of $37.6 million at a discount rate of 7 percent.

[42] Susan Helper, Ryan Noonan, Jessica R. Nicholson, and David Langdon, ''The Benefits and Costs of Apprenticeship: A Business Perspective,'' Case Western Reserve University and U.S. Department of Commerce (November 2016), *https://files.eric.ed.gov/fulltext/ED572260.pdf.*

[43] Office of Management and Budget, ''Circular A–4'' (September 17, 2003).

| Exhibit 6: Alternative 1 Estimated Costs (2017 dollars) | |
|---|---|
| | Costs |
| First Year Total | $8,227,130 |
| | |
| Annualized, 3% discount rate, 10 years | $5,302,056 |
| Annualized, 7% discount rate, 10 years | $5,356,536 |
| | |
| Total, 3% discount rate, 10 years | $45,227,610 |
| Total, 7% discount rate, 10 years | $37,622,064 |

The Department decided not to pursue this alternative because a longer reporting cycle would be inconsistent with the annual reporting cycles for other workforce investment programs, such as those authorized by the Workforce Innovation and Opportunity Act. Furthermore, a longer reporting cycle would be less transparent and provide less accountability to the public.

The second alternative considered by the Department would require SREs to make performance data publicly available on a quarterly reporting cycle rather than on an annual reporting cycle. To estimate the growth in costs under this alternative, the Department increased from 3 to 12 hours (= 3 hours × 4 quarters) the time burden for Industry Programs to provide performance information to their SREs since the information would need to be provided four times per year under this alternative. Second, the Department increased from 30 to 120 hours (= 30 hours × 4 quarters) the time burden for SREs to make the performance information publicly available. Exhibit 7 shows the estimated costs of the proposed rule under this alternative. Over the 10-year analysis period, the annualized costs are estimated at $16.0 million at a discount rate of 7 percent. In total, this alternative is estimated to result in costs of $112.6 million at a discount rate of 7 percent.

| Exhibit 7: Alternative 2 Estimated Costs (2017 dollars) | |
|---|---|
| | Costs |
| First Year Total | $13,464,627 |
| | |
| Annualized, 3% discount rate, 10 years | $16,311,295 |
| Annualized, 7% discount rate, 10 years | $16,032,664 |
| | |
| Total, 3% discount rate, 10 years | $139,138,656 |
| Total, 7% discount rate, 10 years | $112,606,726 |

The Department decided not to pursue this alternative because it would be unduly burdensome for SREs and Industry Programs. Moreover, the additional data that would be collected would not justify the onerousness of the quarterly reporting requirement.

The Department considered these two regulatory alternatives in accordance with the provisions of E.O. 12866 and chose to publish an NPRM that balances flexibility and opportunity for innovation by SREs and Industry Programs, while providing for reasonable reporting cycles that demonstrate transparency and accountability. The Department invites comments on these or other possible alternatives with the goal of ensuring a thorough consideration and discussion at the final rule stage.

*B. Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act of 1996, and Executive Order 13272 (Proper Consideration of Small Entities in Agency Rulemaking)*

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA) imposes certain requirements on Federal agency rules that are subject to the notice-and-comment requirements of the APA, 5 U.S.C. 553(b),[44] and that are likely to have a significant economic impact on a substantial number of small entities. The RFA requires agencies promulgating proposed rules to prepare an Initial Regulatory Flexibility Analysis, and to develop alternatives whenever possible, when drafting regulations that would have a significant economic impact on a substantial number of small entities. The RFA requires the consideration of the impact of a proposed regulation on a wide range of small entities, including

[44] The Regulatory Flexibility Act, as amended, governs ''any rule for which [a federal] agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of [the Administrative Procedure Act] or any other law.'' 5 U.S.C. 601(2) (defining ''rule,'' for purposes of the RFA).

small businesses, not-for-profit organizations, and small governmental jurisdictions.

The Department believes that this proposed rule would have a significant economic impact on a substantial number of small entities and is therefore publishing this Initial Regulatory Flexibility Analysis as required. The Department invites public comment on the following estimates, including the number of small entities affected by the proposed rule and the compliance cost estimates. The Department also invites public comment on the average size of entities involved in establishing Industry Programs, average start-up costs, and whether alternatives exist that would reduce the burden on small entities while still remaining consistent with the objectives of the proposed rule.

1. Why the Department Is Considering Action

The Department is proposing to implement regulations that would facilitate the establishment of Industry Programs and SREs in order to address the ongoing skills gap that faces our nation. Accordingly, the Department considers it imperative to move forward with implementing regulations that would assist and complement the rapid scaling of high-quality apprenticeships in the United States. Also, implementing regulations will facilitate the efficient and effective operation of SREs of Industry Programs. Such regulations would provide stakeholders with information necessary to evaluate the outcomes of this new initiative.

2. Objectives of and Legal Basis for the Proposed Rule

Congress enacted the National Apprenticeship Act, 29 U.S.C. 50, in 1937, authorizing the Secretary of Labor ''to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices,'' as well as to ''to bring together employers and labor for the formulation of programs of apprenticeship.'' In June 2017, President Trump issued E.O. 13801, ''Expanding Apprenticeships in America,'' directing the Secretary of Labor, in consultation with the Secretaries of Education and Commerce, to consider regulations to promote the establishment of apprenticeships developed by trade and industry groups, companies, nonprofit organizations, unions, and joint labor-management organizations, and to provide the framework under which these entities could recognize high-quality apprenticeship programs. Consistent with the NAA and E.O. 13801, the Department is issuing this proposed rule to establish Industry-Recognized Apprenticeship Programs, a new form of apprenticeships intended to harness industry expertise and leadership in order to address the national shortage of skilled workers, thereby implementing the President's vision of expanding apprenticeships in America.

3. Description and Estimate of the Small Entities Affected by the Proposed Rule

This proposed rule would primarily affect two types of entities: SREs and Industry Programs. SREs may include industry associations, employer groups, labor-management organizations, educational organizations, and consortia of these or other organizations. Industry Programs may be developed by entities such as trade and industry groups, companies, nonprofit organizations, unions, and joint labor-management organizations.

As explained in the ''Payments from Industry Programs to SREs'' subsection above, the Department anticipates that SREs may charge an application fee and/or annual fee to the Industry Programs they recognize. Such a fee would help SREs recoup their expenses. Therefore, the Department did not include SREs in this Initial Regulatory Flexibility Analysis.

Instead, this analysis focuses on the small entities that choose to develop Industry Programs. As explained in the E.O. 12866 analysis above, the Department anticipates that each SRE would recognize approximately 32 Industry Programs, beginning with 10 new Industry Programs in its first year as an SRE, and then 8 new Industry Programs in its second year, 5 new Industry Programs in its third year, 3 new Industry Programs in its fourth year, and 1 in its fifth through tenth years. Based on this assumption, the number of new Industry Programs in Year 1 is estimated to be 2,030 (= 203 new SREs in Year 1 × 10 new Industry Programs per SRE). The number of new Industry Programs in Year 2 is estimated to be 1,724 [= (203 new SREs in Year 1 × 8 new Industry Programs per SRE) + (10 new SREs in Year 2 × 10 new Industry Programs per SRE)]. As explained in the E.O.12866 analysis above, the Department estimates that 90 percent of SREs will undergo the Department's process for continued recognition, so in Year 6 the estimated number of new Year 1 SREs will shrink to 183 (= 203 new SREs in Year 1 × 90%). Accordingly, the number of new Industry Programs in Year 6 is estimated to be 707 [= (183 Year 1 SREs with continued recognition × 1 new Industry Programs per SRE) + (10 new SREs in Year 2 × 1 new Industry Programs per SRE) + (11 new SREs in Year 3 × 3 new Industry Programs per SRE) + (11 new SREs in Year 4 × 5 new Industry Programs per SRE) + (12 new SREs in Year 5 × 8 new Industry Programs per SRE) + (33 new SREs in Year 6 × 10 new Industry Programs per SRE)].

To estimate the total number of Industry Programs in each year of the analysis period, the Department first calculated the cumulative total of new Industry Programs per SRE. For example, a new SRE in Year 1 is estimated to have recognized a total of 18 Industry Programs in Year 2 (= 10 new Industry Programs in Year 1 + 8 new Industry Programs in Year 2). So, the total number of Industry Programs in Year 2 is estimated to be 3,754 [= (203 new SREs in Year 1 × 18 total Industry Programs per SRE) + (10 new SREs in Year 2 × 10 total Industry Programs per SRE)]. As explained above, the estimated number of new Year 1 SREs is expected to shrink to 183 in Year 6. Accordingly, the total number of Industry Programs in Year 6 is estimated to be 6,479 [= (183 Year 1 SREs with continued recognition × 28 total Industry Programs per SRE) + (10 new SREs in Year 2 × 27 total Industry Programs per SRE) + (11 new SREs in Year 3 × 26 total Industry Programs per SRE) + (11 new SREs in Year 4 × 23 total Industry Programs per SRE) + (12 new SREs in Year 5 × 18 total Industry Programs per SRE) + (33 new SREs in Year 6 × 10 total Industry Programs per SRE)].

Exhibit 8 presents the projected number of new and total Industry Programs over the 10-year analysis period.[45]

[45] These numbers are identical to the numbers in Exhibit 3.

| Exhibit 8: Projected Number of Industry Programs | | |
|---|---|---|
| Year | Total New Industry Programs | Total Industry Programs |
| 1 | 2,030 | 2,030 |
| 2 | 1,724 | 3,754 |
| 3 | 1,205 | 4,959 |
| 4 | 857 | 5,816 |
| 5 | 496 | 6,312 |
| 6 | 707 | 6,479 |
| 7 | 700 | 7,152 |
| 8 | 676 | 7,801 |
| 9 | 663 | 8,437 |
| 10 | 653 | 9,063 |

Given that this is a new initiative, the Department has no way of knowing what size these Industry Programs would be. Therefore, the Department assumes that the Industry Programs would have the same size distribution as the firms in each of the 19 major industry sectors. This assumption allows the Department to conduct a robust analysis using data from the Census Bureau's Statistics of U.S. Businesses,[46] which include the number of firms, number of employees, and annual revenue by industry and firm size. Using these data allows the Department to estimate the per-program costs of the proposed rule as a percent of revenue by industry and firm size.

4. Compliance Requirements of the Proposed Rule

The E.O. 12866 analysis above quantifies several types of labor costs that would be borne by Industry Programs: (1) Rule familiarization, (2) submission of performance data to the SRE, and (3) disclosure of wages and ancillary costs to apprentices. Additional costs that may be incurred but could not be quantified due to a lack of data include program start-up expenses, educational materials, and mentors' time. In addition, the proposed rule would result in transfer payments from Industry Programs to apprentices in the form of compensation, but the Department does not expect a measurable transfer payment on aggregate because, in the absence of an Industry Program, the jobs filled by apprentices would likely be filled by non-apprentices paid a similar rate or would be addressed by other means.

The proposed rule may also result in payments from Industry Programs to SREs in the form of an application fee and/or annual fee charged by SREs. Such fees, which are neither required nor prohibited under this proposed rule, would help SREs offset their costs. For the Regulatory Flexibility Analysis, these types of fees are considered costs to Industry Programs because the analysis estimates the impact on small entities, not on society at large. Accordingly, the SRE's fees are categorized as costs in this analysis.

The Department anticipates that the bulk of the workload for the labor costs in this analysis would be performed by employees in occupations similar to the occupation titled ''Training and Development Managers'' in the Standard Occupational Classification System. As with the E.O. 12866 analysis, the Department used a fully loaded hourly compensation rate for Training and Development Managers of $113.16.[47]

In addition to the number of Industry Programs and the hourly compensation rate of Training and Development Managers, the following estimates were used to calculate the quantified costs:

- Rule familiarization (one-time cost): 1 hour
- Provision of performance data to the SRE (annual cost): 3 hours
- Disclosure of wages to apprentices (annual cost): 5 minutes
- Disclosure of ancillary costs to apprentices (annual cost): 5 minutes
- SRE's application fee (one-time cost): $3,000
- SRE's annual fee (annual cost): $500 per year

The Department welcomes comments on these estimates.

Exhibit 9 shows the estimated cost per Industry Program for each year of the analysis period. The first year cost per Industry Program is estimated at $3,696 at a discount rate of 7 percent. The annualized cost per Industry Program is estimated at $1,713 at a discount rate of 7 percent. The estimated cost per Industry Program is highest in the first year because all Industry Programs would be new, so the Department's first-year estimate includes both a $3,000 application fee and $500 annual fee for all Industry Programs; in later years, ongoing Industry Programs would only be charged a $500 annual fee under this analysis. These estimates are *average* costs, meaning that some Industry Programs would have higher costs while other Industry Programs would have lower costs, regardless of firm size.

[46] *See* U.S. Census Bureau, *Statistics of U.S. Businesses,* available at *http://www.census.gov/programs-surveys/susb/data.html.*

[47] The mean hourly wage rate for Training and Development Managers in May 2017 was $56.58. (See *https://www.bls.gov/oes/current/oes113131.htm.*) For this analysis, the Department used a fringe benefits rate of 46 percent and an overhead rate of 54 percent, resulting in a fully loaded hourly compensation rate for Training and Development Managers of $113.16 (= $56.58 + ($56.58 × 46%) + ($56.58 × 54%)).

| Exhibit 9: Estimated Cost per Industry Program | | | | | | | |
|---|---|---|---|---|---|---|---|
| Year | Rule Familiarization | Performance Data Collection | Disclosure of Wages and Ancillary Costs | SRE's Fees | Total Cost | Number of Industry Programs | Cost per Industry Program |
| 1 | $229,715 | $689,144 | $3,675 | $7,105,000 | $8,027,535 | 2,030 | $3,954 |
| 2 | $195,088 | $1,274,408 | $6,797 | $7,049,000 | $8,525,293 | 3,754 | $2,271 |
| 3 | $136,358 | $1,683,481 | $8,979 | $6,094,500 | $7,923,318 | 4,959 | $1,598 |
| 4 | $96,978 | $1,974,416 | $10,530 | $5,479,000 | $7,560,924 | 5,816 | $1,300 |
| 5 | $56,127 | $2,142,798 | $11,428 | $4,644,000 | $6,854,353 | 6,312 | $1,086 |
| 6 | $80,004 | $2,199,491 | $11,731 | $5,360,500 | $7,651,726 | 6,479 | $1,181 |
| 7 | $79,212 | $2,427,961 | $12,949 | $5,676,000 | $8,196,122 | 7,152 | $1,146 |
| 8 | $76,496 | $2,648,283 | $14,124 | $5,928,500 | $8,667,404 | 7,801 | $1,111 |
| 9 | $75,025 | $2,864,193 | $15,276 | $6,207,500 | $9,161,994 | 8,437 | $1,086 |
| 10 | $73,893 | $3,076,707 | $35,861 | $6,490,500 | $9,676,962 | 9,063 | $1,068 |
| | | | | | | | |
| First year cost, 7% discount rate | | | | | | | $3,696 |
| Annualized cost, 7% discount rate, 10 years | | | | | | | $1,713 |

5. Estimated Impact of the Proposed Rule on Small Entities

The Department used the following steps to estimate the cost of the proposed rule per Industry Program as a percentage of annual receipts. First, the Department used the Small Business Administration's Table of Small Business Size Standards to determine the size thresholds for small entities within each major industry.[48] Next, the Department obtained data on the number of firms, number of employees, and annual revenue by industry and firm size category from the Census Bureau's Statistics of U.S. Businesses.[49] Then, the Department divided the estimated first year cost and the annualized cost per Industry Program (discounted at a 7 percent rate) by the average annual receipts per firm to determine whether the proposed rule would have a significant economic impact on Industry Programs in each size category.[50] Finally, the Department divided the number of firms in each size category by the total number of firms in the industry to determine whether the proposed rule would have a significant economic impact on a substantial number of small entities.[51] The results are presented in the following 19 tables. In short, the first year cost and annualized cost per Industry Program could have a significant economic impact on a substantial number of small entities in 13 out of 19 industries. It should be noted, however, that this initiative would be voluntary for Industry Programs; therefore, only small entities that choose to participate would experience an economic impact—significant or otherwise.

As shown in Exhibit 10, the first year and annualized costs for Industry Programs in the agriculture, forestry, fishing, and hunting industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the agriculture, forestry, fishing, and hunting industry (20.3 percent). The first year costs are estimated to be 7.3 percent of the average receipts per firm and the annualized costs are estimated to be 3.4 percent of the average receipts per firm for firms with revenue below $100,000.

[48] U.S. Small Business Administration, Table of Small Business Size Standards, *http://www.sba.gov/content/small-business-size-standards.* The size standards, which are expressed either in average annual receipts or number of employees, indicate the maximum allowed for a business in each subsector to be considered small.

[49] U.S. Census Bureau, Statistics of U.S. Businesses, *http://www.census.gov/programs-surveys/susb/data.html.*

[50] For purposes of this analysis, the Department used a 3-percent threshold for ''significant economic impact.'' The Department has used a 3-percent threshold in prior rulemakings. *See, e.g.,* 79 FR 60633 (October 7, 2014) (Establishing a Minimum Wage for Contractors).

[51] For purposes of this analysis, the Department used a 15-percent threshold for ''substantial number of small entities.'' The Department has used a 15-percent threshold in prior rulemakings. *See, e.g.* 79 FR 60633 (October 7, 2014) (Establishing a Minimum Wage for Contractors).

| Exhibit 10: Agriculture, Forestry, Fishing, and Hunting Industry | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Small Business Size Standard: $0.75 million – $27.5 million | | | | | | | | | |
| | Number of Firms[1] | Number of Firms as Percent of Total Firms in Industry[2] | Total Number of Employees[3] | Annual Receipts[4] | Average Receipts per Firm[5] | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts[6] | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts[7] |
| Firms with sales/receipts/revenue below $100,000 | 4,288 | 20.3% | N/A | $215,803,000 | $50,327 | $3,696 | 7.3% | $1,713 | 3.4% |
| Firms with sales/receipts/revenue of $100,000 to $499,999 | 7,985 | 37.8% | 17,528 | $2,005,870,000 | $251,205 | $3,696 | 1.5% | $1,713 | 0.7% |
| Firms with sales/receipts/revenue of $500,000 to $999,999 | 3,399 | 16.1% | 15,047 | $2,437,918,000 | $717,246 | $3,696 | 0.5% | $1,713 | 0.2% |
| Firms with sales/receipts/revenue of $1,000,000 to $2,499,999 | 3,335 | 15.8% | 27,068 | $5,192,149,000 | $1,556,866 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $2,500,000 to $4,999,999 | 1,213 | 5.7% | 19,223 | $4,210,314,000 | $3,470,993 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $5,000,000 to $7,499,999 | 351 | 1.7% | 9,393 | $2,067,573,000 | $5,890,521 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $7,500,000 to $9,999,999 | 210 | 1.0% | 7,143 | $1,736,374,000 | $8,268,448 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $10,000,000 to $14,999,999 | 191 | 0.9% | 10,526 | $2,198,845,000 | $11,512,277 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $15,000,000 to $19,999,999 | 79 | 0.4% | 5,883 | $1,226,159,000 | $15,521,000 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $20,000,000 to $24,999,999 | 29 | 0.1% | 2,399 | $617,304,000 | $21,286,345 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $25,000,000 to $29,999,999 | 29 | 0.1% | 2,108 | $627,438,000 | $21,635,793 | $3,696 | 0.0% | $1,713 | 0.0% |

N/A = not available, not disclosed

[1] Source: U.S. Census Bureau, Statistics of U.S. Businesses.

[2] Number of firms ÷ Total firms in industry

[3] Source: U.S. Census Bureau, Statistics of U.S. Businesses.

[4] Source: U.S. Census Bureau, Statistics of U.S. Businesses.

[5] Annual receipts ÷ Number of firms

[6] First year cost per firm with 7% discounting ÷ Average receipts per firm

[7] Annualized cost per firm with 7% discounting ÷ Average receipts per firm

As shown in Exhibit 11, the first year and annualized costs for Industry Programs in the mining industry are not expected to have a significant economic impact (3 percent or more) on small entities of any size.

| Exhibit 11: Mining Industry | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Small Business Size Standard: 250 – 1,500 employees | | | | | | | | | |
| | Number of Firms | Number of Firms as Percent of Total Firms in Industry | Total Number of Employees | Annual Receipts | Average Receipts per Firm | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts |
| Firms with 0-4 employees | 12,686 | 57.3% | 20,347 | $9,811,191,000 | $773,387 | $3,696 | 0.5% | $1,713 | 0.2% |
| Firms with 5-9 employees | 3,256 | 14.7% | 21,571 | $7,696,826,000 | $2,363,890 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with 10-19 employees | 2,426 | 11.0% | 32,884 | $12,472,042,000 | $5,140,990 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with 20-99 employees | 2,677 | 12.1% | 102,569 | $39,167,488,000 | $14,631,112 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with 100-499 employees | 735 | 3.3% | 116,980 | $57,968,047,000 | $78,868,091 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with 500+ employees[1] | 369 | 1.7% | 433,275 | $428,416,777,000 | $1,161,021,076 | $3,696 | 0.0% | $1,713 | 0.0% |

[1] The small business size standard for several subsectors within the mining industry is 750, 1,000, 1,250, or 1,500 employees; however, data are not disaggregated for firms with more than 500 employees.

As shown in Exhibit 12, the first year and annualized costs for Industry Programs in the utilities industry are not expected to have a significant economic impact (3 percent or more) on small entities of any size.

| Exhibit 12: Utilities Industry | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Small Business Size Standard: 250 – 1,000 employees | | | | | | | | | |
| | Number of Firms | Number of Firms as Percent of Total Firms in Industry | Total Number of Employees | Annual Receipts | Average Receipts per Firm | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts |
| Firms with 0-4 employees | 3,072 | 51.4% | 5,939 | $4,148,617,000 | $1,350,461 | $3,696 | 0.3% | $1,713 | 0.1% |
| Firms with 5-9 employees | 984 | 16.5% | 6,330 | $2,094,449,000 | $2,128,505 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with 10-19 employees | 500 | 8.4% | 6,670 | $4,464,945,000 | $8,929,890 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with 20-99 employees | 904 | 15.1% | 40,677 | $37,395,431,000 | $41,366,627 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with 100-499 employees | 314 | 5.3% | 52,009 | $50,719,290,000 | $161,526,401 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with 500+ employees[1] | 199 | 3.3% | 529,438 | $432,375,983,000 | $2,172,743,633 | $3,696 | 0.0% | $1,713 | 0.0% |
| [1] The small business size standard for several subsectors within the utilities industry is 750 or 1,000 employees; however, data are not disaggregated for firms with more than 500 employees. | | | | | | | | | |

As shown in Exhibit 13, the first year and annualized costs for Industry Programs in the manufacturing industry are not expected to have a significant economic impact (3 percent or more) on small entities of any size.

| Exhibit 13: Manufacturing Industry | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Small Business Size Standard: 500 – 1,500 employees | | | | | | | | | |
| | Number of Firms | Number of Firms as Percent of Total Firms in Industry | Total Number of Employees | Annual Receipts | Average Receipts per Firm | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts |
| Firms with 0-4 employees | 106,932 | 41.7% | 199,847 | $46,408,019,000 | $433,996 | $3,696 | 0.9% | $1,713 | 0.4% |
| Firms with 5-9 employees | 47,612 | 18.6% | 317,445 | $52,345,651,000 | $1,099,421 | $3,696 | 0.3% | $1,713 | 0.2% |
| Firms with 10-19 employees | 38,564 | 15.0% | 526,660 | $94,946,327,000 | $2,462,046 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with 20-99 employees | 47,443 | 18.5% | 1,939,710 | $454,441,177,000 | $9,578,677 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with 100-499 employees | 12,186 | 4.8% | 2,103,243 | $683,068,069,000 | $56,053,510 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with 500+ employees[1] | 3,626 | 1.4% | 6,105,138 | $4,399,024,641,000 | $1,213,189,366 | $3,696 | 0.0% | $1,713 | 0.0% |
| [1] The small business size standard for many subsectors within the manufacturing industry is 750, 1,000, 1,250, or 1,500 employees; however, data are not disaggregated for firms with more than 500 employees. | | | | | | | | | |

As shown in Exhibit 14, the first year and annualized costs for Industry Programs in the wholesale trade industry are not expected to have a significant economic impact (3 percent or more) on small entities of any size.

| Exhibit 14: Wholesale Trade Industry | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Small Business Size Standard: 100 – 250 employees | | | | | | | | | |
| | Number of Firms | Number of Firms as Percent of Total Firms in Industry | Total Number of Employees | Annual Receipts | Average Receipts per Firm | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts |
| Firms with 0-4 employees | 180,049 | 57.7% | 305,056 | $319,323,324,000 | $1,773,536 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with 5-9 employees | 53,703 | 17.2% | 353,848 | $263,541,607,000 | $4,907,391 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with 10-19 employees | 36,049 | 11.6% | 481,671 | $359,184,882,000 | $9,963,796 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with 20-99 employees | 34,536 | 11.1% | 1,276,022 | $1,024,608,963,000 | $29,667,853 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with 100-499 employees | 7,737 | 2.5% | 1,023,919 | $1,085,384,946,000 | $140,284,987 | $3,696 | 0.0% | $1,713 | 0.0% |

As shown in Exhibit 15, the first year and annualized costs for Industry Programs in the retail trade industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, but those firms do not constitute a substantial number of small entities in the retail trade industry (12.4 percent). The first year costs are estimated to be 7.1 percent of the average receipts per firm and the annualized costs are estimated to be 3.3 percent of the average receipts per firm for firms with revenue below $100,000.

| Exhibit 15: Retail Trade Industry | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Small Business Size Standard: $7.5 million – $38.5 million | | | | | | | | | |
| | Number of Firms | Number of Firms as Percent of Total Firms in Industry | Total Number of Employees | Annual Receipts | Average Receipts per Firm | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts |
| Firms with sales/receipts/revenue below $100,000 | 79,415 | 12.4% | N/A | $4,142,505,000 | $52,163 | $3,696 | 7.1% | $1,713 | 3.3% |
| Firms with sales/receipts/revenue of $100,000 to $499,999 | 226,195 | 35.3% | 597,967 | $61,192,802,000 | $270,531 | $3,696 | 1.4% | $1,713 | 0.6% |
| Firms with sales/receipts/revenue of $500,000 to $999,999 | 115,616 | 18.0% | 539,126 | $82,552,882,000 | $714,026 | $3,696 | 0.5% | $1,713 | 0.2% |
| Firms with sales/receipts/revenue of $1,000,000 to $2,499,999 | 115,103 | 18.0% | 885,466 | $181,435,583,000 | $1,576,289 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $2,500,000 to $4,999,999 | 53,905 | 8.4% | 673,056 | $187,480,866,000 | $3,477,987 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $5,000,000 to $7,499,999 | 19,139 | 3.0% | 359,417 | $114,151,432,000 | $5,964,336 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $7,500,000 to $9,999,999 | 9,110 | 1.4% | 234,666 | $76,658,889,000 | $8,414,807 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $10,000,000 to $14,999,999 | 9,236 | 1.4% | 317,056 | $107,103,037,000 | $11,596,258 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $15,000,000 to $19,999,999 | 4,647 | 0.7% | 204,846 | $75,536,677,000 | $16,254,934 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $20,000,000 to $24,999,999 | 3,079 | 0.5% | 162,942 | $63,579,375,000 | $20,649,359 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $25,000,000 to $29,999,999 | 2,115 | 0.3% | 126,196 | $53,042,313,000 | $25,079,108 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $30,000,000 to $34,999,999 | 1,709 | 0.3% | 122,481 | $50,891,275,000 | $29,778,394 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $35,000,000 to $39,999,999 | 1,333 | 0.2% | 104,722 | $45,330,650,000 | $34,006,489 | $3,696 | 0.0% | $1,713 | 0.0% |
| N/A = not available, not disclosed | | | | | | | | | |

As shown in Exhibit 16, the first year and annualized costs for Industry Programs in the transportation and warehousing industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the transportation and warehousing industry (21.0 percent). The first year costs are estimated to be 7.6 percent of the average receipts per firm and the annualized costs are estimated to be 3.5 percent of the average receipts per firm for firms with revenue below $100,000.

| Exhibit 16: Transportation and Warehousing Industry | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Small Business Size Standard: $7.5 million – $38.5 million | | | | | | | | | |
| | Number of Firms | Number of Firms as Percent of Total Firms in Industry | Total Number of Employees | Annual Receipts | Average Receipts per Firm | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts |
| Firms with sales/receipts/revenue below $100,000 | 34,560 | 21.0% | N/A | $1,675,127,000 | $48,470 | $3,696 | 7.6% | $1,713 | 3.5% |
| Firms with sales/receipts/revenue of $100,000 to $499,999 | 66,204 | 40.3% | 164,298 | $16,175,517,000 | $244,328 | $3,696 | 1.5% | $1,713 | 0.7% |
| Firms with sales/receipts/revenue of $500,000 to $999,999 | 23,100 | 14.0% | 142,743 | $16,279,203,000 | $704,727 | $3,696 | 0.5% | $1,713 | 0.2% |
| Firms with sales/receipts/revenue of $1,000,000 to $2,499,999 | 20,675 | 12.6% | 243,088 | $32,036,433,000 | $1,549,525 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $2,500,000 to $4,999,999 | 9,236 | 5.6% | 207,533 | $31,579,320,000 | $3,419,155 | $3,696 | 0.1% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $5,000,000 to $7,499,999 | 3,715 | 2.3% | 128,002 | $21,532,906,000 | $5,796,206 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $7,500,000 to $9,999,999 | 1,991 | 1.2% | 93,148 | $15,968,571,000 | $8,020,377 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $10,000,000 to $14,999,999 | 2,038 | 1.2% | 122,894 | $21,945,352,000 | $10,768,082 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $15,000,000 to $19,999,999 | 1,089 | 0.7% | 88,025 | $15,508,043,000 | $14,240,627 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $20,000,000 to $24,999,999 | 706 | 0.4% | 67,974 | $12,389,543,000 | $17,548,928 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $25,000,000 to $29,999,999 | 485 | 0.3% | 56,730 | $10,263,306,000 | $21,161,456 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $30,000,000 to $34,999,999 | 348 | 0.2% | 42,232 | $8,074,953,000 | $23,203,888 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $35,000,000 to $39,999,999 | 273 | 0.2% | 39,751 | $6,355,335,000 | $23,279,615 | $3,696 | 0.0% | $1,713 | 0.0% |
| N/A = not available, not disclosed | | | | | | | | | |

As shown in Exhibit 17, the first year and annualized costs for Industry Programs in the information industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the information industry (21.1 percent). The first year costs are estimated to be 7.6 percent of the average receipts per firm and the annualized costs are

estimated to be 3.5 percent of the average receipts per firm for firms with revenue below $100,000.

| Exhibit 17: Information Industry | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Small Business Size Standard: $7.5 million – $38.5 million | | | | | | | | | |
| | Number of Firms | Number of Firms as Percent of Total Firms in Industry | Total Number of Employees | Annual Receipts | Average Receipts per Firm | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts |
| Firms with sales/receipts/revenue below $100,000 | 14,555 | 21.1% | N/A | $705,483,000 | $48,470 | $3,696 | 7.6% | $1,713 | 3.5% |
| Firms with sales/receipts/revenue of $100,000 to $499,999 | 25,429 | 36.9% | 67,711 | $6,301,564,000 | $247,810 | $3,696 | 1.5% | $1,713 | 0.7% |
| Firms with sales/receipts/revenue of $500,000 to $999,999 | 9,467 | 13.7% | 58,475 | $6,705,729,000 | $708,327 | $3,696 | 0.5% | $1,713 | 0.2% |
| Firms with sales/receipts/revenue of $1,000,000 to $2,499,999 | 9,098 | 13.2% | 104,348 | $14,255,220,000 | $1,566,852 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $2,500,000 to $4,999,999 | 4,509 | 6.5% | 93,553 | $15,503,654,000 | $3,438,380 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $5,000,000 to $7,499,999 | 1,839 | 2.7% | 58,853 | $10,822,491,000 | $5,884,987 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $7,500,000 to $9,999,999 | 1,063 | 1.5% | 45,849 | $8,760,095,000 | $8,240,917 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $10,000,000 to $14,999,999 | 1,195 | 1.7% | 67,920 | $13,486,797,000 | $11,286,023 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $15,000,000 to $19,999,999 | 657 | 1.0% | 48,544 | $10,520,902,000 | $16,013,549 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $20,000,000 to $24,999,999 | 464 | 0.7% | 42,553 | $9,176,577,000 | $19,777,106 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $25,000,000 to $29,999,999 | 282 | 0.4% | 31,492 | $6,741,177,000 | $23,904,883 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $30,000,000 to $34,999,999 | 269 | 0.4% | 32,228 | $7,476,148,000 | $27,792,372 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $35,000,000 to $39,999,999 | 167 | 0.2% | 21,764 | $5,365,464,000 | $32,128,527 | $3,696 | 0.0% | $1,713 | 0.0% |
| N/A = not available, not disclosed | | | | | | | | | |

As shown in Exhibit 18, the first year and annualized costs for Industry Programs in the finance and insurance industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the finance and insurance industry (21.7 percent). The first year costs are estimated to be 7.5 percent of the average receipts per firm and the annualized costs are estimated to be 3.5 percent of the average receipts per firm for firms with revenue below $100,000.

| Exhibit 18: Finance and Insurance Industry | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Small Business Size Standard: $7.5 million – $38.5 million | | | | | | | | | |
| | Number of Firms | Number of Firms as Percent of Total Firms in Industry | Total Number of Employees | Annual Receipts | Average Receipts per Firm | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts |
| Firms with sales/receipts/revenue below $100,000 | 50,093 | 21.7% | N/A | $2,466,932,000 | $49,247 | $3,696 | 7.5% | $1,713 | 3.5% |
| Firms with sales/receipts/revenue of $100,000 to $499,999 | 108,248 | 46.9% | 259,664 | $27,228,139,000 | $251,535 | $3,696 | 1.5% | $1,713 | 0.7% |
| Firms with sales/receipts/revenue of $500,000 to $999,999 | 30,194 | 13.1% | 145,543 | $20,834,656,000 | $690,026 | $3,696 | 0.5% | $1,713 | 0.2% |
| Firms with sales/receipts/revenue of $1,000,000 to $2,499,999 | 20,617 | 8.9% | 181,810 | $31,648,935,000 | $1,535,089 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $2,500,000 to $4,999,999 | 8,743 | 3.8% | 158,845 | $30,321,167,000 | $3,468,051 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $5,000,000 to $7,499,999 | 3,900 | 1.7% | 108,367 | $23,230,029,000 | $5,956,418 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $7,500,000 to $9,999,999 | 2,292 | 1.0% | 88,271 | $19,151,469,000 | $8,355,789 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $10,000,000 to $14,999,999 | 2,594 | 1.1% | 134,488 | $30,393,812,000 | $11,716,967 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $15,000,000 to $19,999,999 | 1,437 | 0.6% | 95,832 | $23,632,362,000 | $16,445,624 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $20,000,000 to $24,999,999 | 925 | 0.4% | 76,347 | $19,240,191,000 | $20,800,206 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $25,000,000 to $29,999,999 | 632 | 0.3% | 68,829 | $16,235,520,000 | $25,689,114 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $30,000,000 to $34,999,999 | 532 | 0.2% | 60,193 | $15,593,649,000 | $29,311,370 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $35,000,000 to $39,999,999 | 387 | 0.2% | 48,800 | $13,302,624,000 | $34,373,705 | $3,696 | 0.0% | $1,713 | 0.0% |
| N/A = not available, not disclosed | | | | | | | | | |

As shown in Exhibit 19, the first year and annualized costs for Industry Programs in the real estate and rental and leasing industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the real estate and rental and leasing industry (25.9 percent). The first year costs are estimated to be 7.3 percent of the average receipts per firm and the annualized costs are estimated to be 3.4 percent of the average receipts per firm for firms with revenue below $100,000.

Exhibit 19: Real Estate and Rental and Leasing Industry

Small Business Size Standard: $7.5 million – $38.5 million

| | Number of Firms | Number of Firms as Percent of Total Firms in Industry | Total Number of Employees | Annual Receipts | Average Receipts per Firm | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts |
|---|---|---|---|---|---|---|---|---|---|
| Firms with sales/receipts/revenue below $100,000 | 69,381 | 25.9% | N/A | $3,496,398,000 | $50,394 | $3,696 | 7.3% | $1,713 | 3.4% |
| Firms with sales/receipts/revenue of $100,000 to $499,999 | 115,993 | 43.3% | 251,175 | $28,401,383,000 | $244,854 | $3,696 | 1.5% | $1,713 | 0.7% |
| Firms with sales/receipts/revenue of $500,000 to $999,999 | 37,145 | 13.9% | 169,892 | $26,133,483,000 | $703,553 | $3,696 | 0.5% | $1,713 | 0.2% |
| Firms with sales/receipts/revenue of $1,000,000 to $2,499,999 | 27,705 | 10.3% | 239,062 | $42,364,031,000 | $1,529,111 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $2,500,000 to $4,999,999 | 9,488 | 3.5% | 165,022 | $31,946,434,000 | $3,367,036 | $3,696 | 0.1% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $5,000,000 to $7,499,999 | 3,047 | 1.1% | 86,769 | $17,503,088,000 | $5,744,368 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $7,500,000 to $9,999,999 | 1,528 | 0.6% | 58,727 | $11,926,523,000 | $7,805,316 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $10,000,000 to $14,999,999 | 1,476 | 0.6% | 69,231 | $15,748,767,000 | $10,669,896 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $15,000,000 to $19,999,999 | 789 | 0.3% | 49,475 | $11,156,616,000 | $14,140,198 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $20,000,000 to $24,999,999 | 485 | 0.2% | 33,800 | $8,191,383,000 | $16,889,449 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $25,000,000 to $29,999,999 | 347 | 0.1% | 27,443 | $7,110,513,000 | $20,491,392 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $30,000,000 to $34,999,999 | 260 | 0.1% | 25,368 | $6,117,119,000 | $23,527,381 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $35,000,000 to $39,999,999 | 183 | 0.1% | 17,798 | $4,704,982,000 | $25,710,284 | $3,696 | 0.0% | $1,713 | 0.0% |

N/A = not available, not disclosed

As shown in Exhibit 20, the first year and annualized costs for Industry Programs in the professional, scientific, and technical services industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the professional, scientific, and technical services industry (25.2 percent). The first year costs are estimated to be 7.5 percent of the average receipts per firm and the annualized costs are estimated to be 3.5 percent of the average receipts per firm for firms with revenue below $100,000.

| Exhibit 20: Professional, Scientific and Technical Services Industry | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Small Business Size Standard: $7.5 million – $38.5 million | | | | | | | | | |
| | Number of Firms | Number of Firms as Percent of Total Firms in Industry | Total Number of Employees | Annual Receipts | Average Receipts per Firm | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts |
| Firms with sales/receipts/revenue below $100,000 | 193,388 | 25.2% | N/A | $9,558,991,000 | $49,429 | $3,696 | 7.5% | $1,713 | 3.5% |
| Firms with sales/receipts/revenue of $100,000 to $499,999 | 339,688 | 44.3% | 750,314 | $82,115,768,000 | $241,739 | $3,696 | 1.5% | $1,713 | 0.7% |
| Firms with sales/receipts/revenue of $500,000 to $999,999 | 99,575 | 13.0% | 524,326 | $70,218,001,000 | $705,177 | $3,696 | 0.5% | $1,713 | 0.2% |
| Firms with sales/receipts/revenue of $1,000,000 to $2,499,999 | 77,769 | 10.1% | 785,957 | $119,889,375,000 | $1,541,609 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $2,500,000 to $4,999,999 | 29,032 | 3.8% | 578,392 | $99,939,437,000 | $3,442,389 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $5,000,000 to $7,499,999 | 10,314 | 1.3% | 339,687 | $61,531,502,000 | $5,965,823 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $7,500,000 to $9,999,999 | 5,300 | 0.7% | 240,552 | $44,308,266,000 | $8,360,050 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $10,000,000 to $14,999,999 | 5,195 | 0.7% | 304,723 | $59,665,120,000 | $11,485,105 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $15,000,000 to $19,999,999 | 2,608 | 0.3% | 211,885 | $41,368,442,000 | $15,862,133 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $20,000,000 to $24,999,999 | 1,605 | 0.2% | 159,832 | $32,088,646,000 | $19,992,926 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $25,000,000 to $29,999,999 | 1,046 | 0.1% | 122,102 | $25,225,025,000 | $24,115,703 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $30,000,000 to $34,999,999 | 752 | 0.1% | 94,344 | $20,975,584,000 | $27,893,064 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $35,000,000 to $39,999,999 | 522 | 0.1% | 81,816 | $16,142,861,000 | $30,925,021 | $3,696 | 0.0% | $1,713 | 0.0% |
| N/A = not available, not disclosed | | | | | | | | | |

As shown in Exhibit 21, the first year and annualized costs for Industry Programs in the management of companies and enterprises industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, but those firms do not constitute a substantial number of small entities in the management of companies and enterprises industry (7.8 percent). The first year costs are estimated to be 12.1 percent of the average receipts per firm and the annualized costs are estimated to be 5.6 percent of the average receipts per firm for firms with revenue below $100,000.

| Exhibit 21: Management of Companies and Enterprises Industry | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Small Business Size Standard: $20.5 million | | | | | | | | | |
| | Number of Firms | Number of Firms as Percent of Total Firms in Industry | Total Number of Employees | Annual Receipts | Average Receipts per Firm | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts |
| Firms with sales/receipts/revenue below $100,000 | 1,107 | 7.8% | 7,938 | $33,849,000 | $30,577 | $3,696 | 12.1% | $1,713 | 5.6% |
| Firms with sales/receipts/revenue of $100,000 to $499,999 | 1,216 | 8.6% | 4,631 | $251,252,000 | $206,622 | $3,696 | 1.8% | $1,713 | 0.8% |
| Firms with sales/receipts/revenue of $500,000 to $999,999 | 743 | 5.3% | 5,764 | $285,686,000 | $384,503 | $3,696 | 1.0% | $1,713 | 0.4% |
| Firms with sales/receipts/revenue of $1,000,000 to $2,499,999 | 1,668 | 11.8% | 17,384 | $783,830,000 | $469,922 | $3,696 | 0.8% | $1,713 | 0.4% |
| Firms with sales/receipts/revenue of $2,500,000 to $4,999,999 | 2,016 | 14.3% | 26,218 | $1,395,007,000 | $691,968 | $3,696 | 0.5% | $1,713 | 0.2% |
| Firms with sales/receipts/revenue of $5,000,000 to $7,499,999 | 1,602 | 11.3% | 26,210 | $1,567,547,000 | $978,494 | $3,696 | 0.4% | $1,713 | 0.2% |
| Firms with sales/receipts/revenue of $7,500,000 to $9,999,999 | 1,229 | 8.7% | 22,064 | $1,528,733,000 | $1,243,884 | $3,696 | 0.3% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $10,000,000 to $14,999,999 | 1,969 | 13.9% | 42,504 | $2,727,035,000 | $1,384,985 | $3,696 | 0.3% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $15,000,000 to $19,999,999 | 1,454 | 10.3% | 36,455 | $2,687,284,000 | $1,848,201 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $20,000,000 to $24,999,999 | 1,114 | 7.9% | 27,887 | $2,617,195,000 | $2,349,367 | $3,696 | 0.2% | $1,713 | 0.1% |

As shown in Exhibit 22, the first year and annualized costs for Industry Programs in the administrative and support, waste management and remediation services industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the administrative and support, waste management and remediation services industry (29.0 percent). The first year costs are estimated to be 7.9 percent of the average receipts per firm and the annualized costs are estimated to be 3.7 percent of the average receipts per firm for firms with revenue below $100,000.

| Exhibit 22: Administrative and Support, Waste Management and Remediation Services Industry | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Small Business Size Standard: $5.5 million – $38.5 million | | | | | | | | | |
| | Number of Firms | Number of Firms as Percent of Total Firms in Industry | Total Number of Employees | Annual Receipts | Average Receipts per Firm | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts |
| Firms with sales/receipts/revenue below $100,000 | 93,960 | 29.0% | 126,543 | $4,409,293,000 | $46,927 | $3,696 | 7.9% | $1,713 | 3.7% |
| Firms with sales/receipts/revenue of $100,000 to $499,999 | 132,326 | 40.9% | 477,646 | $32,162,760,000 | $243,057 | $3,696 | 1.5% | $1,713 | 0.7% |
| Firms with sales/receipts/revenue of $500,000 to $999,999 | 40,136 | 12.4% | 379,760 | $28,185,706,000 | $702,255 | $3,696 | 0.5% | $1,713 | 0.2% |
| Firms with sales/receipts/revenue of $1,000,000 to $2,499,999 | 31,696 | 9.8% | 672,031 | $48,905,893,000 | $1,542,967 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $2,500,000 to $4,999,999 | 12,452 | 3.8% | 584,765 | $42,271,882,000 | $3,394,787 | $3,696 | 0.1% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $5,000,000 to $7,499,999 | 4,523 | 1.4% | 373,053 | $26,193,931,000 | $5,791,274 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $7,500,000 to $9,999,999 | 2,373 | 0.7% | 271,117 | $19,082,571,000 | $8,041,539 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $10,000,000 to $14,999,999 | 2,522 | 0.8% | 387,341 | $27,561,427,000 | $10,928,401 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $15,000,000 to $19,999,999 | 1,313 | 0.4% | 270,010 | $18,902,442,000 | $14,396,376 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $20,000,000 to $24,999,999 | 892 | 0.3% | 216,790 | $15,644,955,000 | $17,539,187 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $25,000,000 to $29,999,999 | 601 | 0.2% | 196,440 | $12,764,154,000 | $21,238,193 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $30,000,000 to $34,999,999 | 456 | 0.1% | 164,713 | $10,696,102,000 | $23,456,364 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $35,000,000 to $39,999,999 | 311 | 0.1% | 139,531 | $8,205,878,000 | $26,385,460 | $3,696 | 0.0% | $1,713 | 0.0% |

As shown in Exhibit 23, the first year and annualized costs for Industry Programs in the educational services industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the educational services industry (26.8 percent). The first year costs are estimated to be 7.9 percent of the average receipts per firm and the annualized costs are estimated to be 3.7 percent of the average receipts per firm for firms with revenue below $100,000.

| Exhibit 23: Educational Services Industry | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Small Business Size Standard: $7.5 million – $38.5 million | | | | | | | | | |
| | Number of Firms | Number of Firms as Percent of Total Firms in Industry | Total Number of Employees | Annual Receipts | Average Receipts per Firm | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts |
| Firms with sales/receipts/revenue below $100,000 | 22,232 | 26.8% | 45,228 | $1,042,922,000 | $46,911 | $3,696 | 7.9% | $1,713 | 3.7% |
| Firms with sales/receipts/revenue of $100,000 to $499,999 | 32,128 | 38.7% | 175,610 | $7,838,923,000 | $243,990 | $3,696 | 1.5% | $1,713 | 0.7% |
| Firms with sales/receipts/revenue of $500,000 to $999,999 | 9,530 | 11.5% | 123,920 | $6,717,924,000 | $704,924 | $3,696 | 0.5% | $1,713 | 0.2% |
| Firms with sales/receipts/revenue of $1,000,000 to $2,499,999 | 8,735 | 10.5% | 216,317 | $13,846,119,000 | $1,585,131 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $2,500,000 to $4,999,999 | 4,716 | 5.7% | 216,842 | $16,353,734,000 | $3,467,713 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $5,000,000 to $7,499,999 | 1,966 | 2.4% | 142,665 | $11,510,807,000 | $5,854,937 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $7,500,000 to $9,999,999 | 1,028 | 1.2% | 96,347 | $8,493,535,000 | $8,262,194 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $10,000,000 to $14,999,999 | 1,113 | 1.3% | 138,383 | $12,679,800,000 | $11,392,453 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $15,000,000 to $19,999,999 | 542 | 0.7% | 87,214 | $8,194,214,000 | $15,118,476 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $20,000,000 to $24,999,999 | 388 | 0.5% | 70,422 | $7,566,005,000 | $19,500,013 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $25,000,000 to $29,999,999 | 255 | 0.3% | 61,634 | $6,166,517,000 | $24,182,420 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $30,000,000 to $34,999,999 | 202 | 0.2% | 57,698 | $5,824,708,000 | $28,835,188 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $35,000,000 to $39,999,999 | 191 | 0.2% | 61,907 | $6,200,412,000 | $32,462,890 | $3,696 | 0.0% | $1,713 | 0.0% |

As shown in Exhibit 24, the first year and annualized costs for Industry Programs in the health care and social assistance industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the health care and social assistance industry (17.3 percent). The first year costs are estimated to be 7.7 percent of the average receipts per firm and the annualized costs are estimated to be 3.6 percent of the average receipts per firm for firms with revenue below $100,000.

| Exhibit 24: Health Care and Social Assistance Industry | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Small Business Size Standard: $7.5 million – $38.5 million | | | | | | | | | |
| | Number of Firms | Number of Firms as Percent of Total Firms in Industry | Total Number of Employees | Annual Receipts | Average Receipts per Firm | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts |
| Firms with sales/receipts/revenue below $100,000 | 110,259 | 17.3% | 162,885 | $5,260,895,000 | $47,714 | $3,696 | 7.7% | $1,713 | 3.6% |
| Firms with sales/receipts/revenue of $100,000 to $499,999 | 249,219 | 39.2% | 1,010,642 | $67,642,299,000 | $271,417 | $3,696 | 1.4% | $1,713 | 0.6% |
| Firms with sales/receipts/revenue of $500,000 to $999,999 | 128,577 | 20.2% | 1,073,376 | $90,967,720,000 | $707,496 | $3,696 | 0.5% | $1,713 | 0.2% |
| Firms with sales/receipts/revenue of $1,000,000 to $2,499,999 | 91,324 | 14.4% | 1,576,609 | $138,206,644,000 | $1,513,366 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $2,500,000 to $4,999,999 | 28,520 | 4.5% | 1,156,550 | $98,200,090,000 | $3,443,201 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $5,000,000 to $7,499,999 | 10,167 | 1.6% | 729,810 | $60,941,395,000 | $5,994,039 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $7,500,000 to $9,999,999 | 5,380 | 0.8% | 556,088 | $45,627,101,000 | $8,480,874 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $10,000,000 to $14,999,999 | 5,700 | 0.9% | 785,047 | $67,302,238,000 | $11,807,410 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $15,000,000 to $19,999,999 | 2,953 | 0.5% | 556,945 | $48,758,779,000 | $16,511,608 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $20,000,000 to $24,999,999 | 1,642 | 0.3% | 384,059 | $34,859,152,000 | $21,229,691 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $25,000,000 to $29,999,999 | 1,139 | 0.2% | 318,772 | $29,550,252,000 | $25,944,032 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $30,000,000 to $34,999,999 | 731 | 0.1% | 244,490 | $22,423,595,000 | $30,675,233 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $35,000,000 to $39,999,999 | 579 | 0.1% | 213,048 | $20,384,881,000 | $35,207,048 | $3,696 | 0.0% | $1,713 | 0.0% |

As shown in Exhibit 25, the first year and annualized costs for Industry Programs in the arts, entertainment, and recreation industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the arts, entertainment, and recreation industry (26.1 percent). The first year costs are estimated to be 7.7 percent of the average receipts per firm and the annualized costs are estimated to be 3.6 percent of the average receipts per firm for firms with revenue below $100,000.

| Exhibit 25: Arts, Entertainment, and Recreation Industry | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Small Business Size Standard: $7.5 million – $38.5 million | | | | | | | | | |
| | Number of Firms | Number of Firms as Percent of Total Firms in Industry | Total Number of Employees | Annual Receipts | Average Receipts per Firm | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts |
| Firms with sales/receipts/revenue below $100,000 | 29,796 | 26.1% | 43,003 | $1,434,271,000 | $48,136 | $3,696 | 7.7% | $1,713 | 3.6% |
| Firms with sales/receipts/revenue of $100,000 to $499,999 | 46,205 | 40.5% | 177,421 | $11,476,438,000 | $248,381 | $3,696 | 1.5% | $1,713 | 0.7% |
| Firms with sales/receipts/revenue of $500,000 to $999,999 | 16,220 | 14.2% | 161,111 | $11,394,483,000 | $702,496 | $3,696 | 0.5% | $1,713 | 0.2% |
| Firms with sales/receipts/revenue of $1,000,000 to $2,499,999 | 12,675 | 11.1% | 260,098 | $19,329,326,000 | $1,524,996 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $2,500,000 to $4,999,999 | 4,776 | 4.2% | 205,728 | $16,246,680,000 | $3,401,734 | $3,696 | 0.1% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $5,000,000 to $7,499,999 | 1,800 | 1.6% | 126,508 | $10,478,303,000 | $5,821,279 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $7,500,000 to $9,999,999 | 854 | 0.7% | 78,319 | $6,855,951,000 | $8,028,046 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $10,000,000 to $14,999,999 | 746 | 0.7% | 94,755 | $8,148,731,000 | $10,923,232 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $15,000,000 to $19,999,999 | 373 | 0.3% | 58,407 | $5,452,457,000 | $14,617,847 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $20,000,000 to $24,999,999 | 239 | 0.2% | 46,528 | $4,493,765,000 | $18,802,364 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $25,000,000 to $29,999,999 | 169 | 0.1% | 36,443 | $3,701,048,000 | $21,899,692 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $30,000,000 to $34,999,999 | 126 | 0.1% | 34,942 | $3,075,728,000 | $24,410,540 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $35,000,000 to $39,999,999 | 83 | 0.1% | 22,145 | $2,382,282,000 | $28,702,193 | $3,696 | 0.0% | $1,713 | 0.0% |

As shown in Exhibit 26, the first year and annualized costs for Industry Programs in the accommodation and food services industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the accommodation and food services industry (16.7 percent). The first year costs are estimated to be 7.4 percent of the average receipts per firm and the annualized costs are estimated to be 3.4 percent of the average receipts per firm for firms with revenue below $100,000.

| Exhibit 26: Accommodation and Food Services Industry | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Small Business Size Standard: $7.5 million – $38.5 million | | | | | | | | | |
| | Number of Firms | Number of Firms as Percent of Total Firms in Industry | Total Number of Employees | Annual Receipts | Average Receipts per Firm | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts |
| Firms with sales/receipts/revenue below $100,000 | 82,318 | 16.7% | 148,453 | $4,113,239,000 | $49,968 | $3,696 | 7.4% | $1,713 | 3.4% |
| Firms with sales/receipts/revenue of $100,000 to $499,999 | 220,222 | 44.6% | 1,215,171 | $57,675,374,000 | $261,897 | $3,696 | 1.4% | $1,713 | 0.7% |
| Firms with sales/receipts/revenue of $500,000 to $999,999 | 94,121 | 19.1% | 1,317,249 | $66,152,275,000 | $702,843 | $3,696 | 0.5% | $1,713 | 0.2% |
| Firms with sales/receipts/revenue of $1,000,000 to $2,499,999 | 68,299 | 13.8% | 1,935,085 | $102,096,727,000 | $1,494,850 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $2,500,000 to $4,999,999 | 18,078 | 3.7% | 1,031,712 | $59,715,760,000 | $3,303,228 | $3,696 | 0.1% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $5,000,000 to $7,499,999 | 4,340 | 0.9% | 417,047 | $24,803,758,000 | $5,715,152 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $7,500,000 to $9,999,999 | 1,946 | 0.4% | 261,642 | $15,733,566,000 | $8,085,080 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $10,000,000 to $14,999,999 | 1,924 | 0.4% | 369,182 | $21,512,132,000 | $11,180,942 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $15,000,000 to $19,999,999 | 916 | 0.2% | 239,396 | $14,017,239,000 | $15,302,663 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $20,000,000 to $24,999,999 | 573 | 0.1% | 198,703 | $11,025,439,000 | $19,241,604 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $25,000,000 to $29,999,999 | 419 | 0.1% | 168,878 | $9,690,933,000 | $23,128,718 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $30,000,000 to $34,999,999 | 306 | 0.1% | 150,087 | $8,385,452,000 | $27,403,438 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $35,000,000 to $39,999,999 | 216 | 0.0% | 114,752 | $6,677,701,000 | $30,915,282 | $3,696 | 0.0% | $1,713 | 0.0% |

As shown in Exhibit 27, the first year and annualized costs for Industry Programs in the other services industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the other services industry (27.8 percent). The first year costs are estimated to be 7.4 percent of the average receipts per firm and the annualized costs are estimated to be 3.5 percent of the average receipts per firm for firms with revenue below $100,000.

| Exhibit 27: Other Services Industry | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Small Business Size Standard: $5.5 million – $38.5 million | | | | | | | | | |
| | Number of Firms | Number of Firms as Percent of Total Firms in Industry | Total Number of Employees | Annual Receipts | Average Receipts per Firm | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts |
| Firms with sales/receipts/revenue below $100,000 | 185,026 | 27.8% | 299,249 | $9,186,611,000 | $49,650 | $3,696 | 7.4% | $1,713 | 3.5% |
| Firms with sales/receipts/revenue of $100,000 to $499,999 | 304,158 | 45.8% | 1,134,354 | $74,567,484,000 | $245,160 | $3,696 | 1.5% | $1,713 | 0.7% |
| Firms with sales/receipts/revenue of $500,000 to $999,999 | 89,577 | 13.5% | 725,898 | $62,488,143,000 | $697,591 | $3,696 | 0.5% | $1,713 | 0.2% |
| Firms with sales/receipts/revenue of $1,000,000 to $2,499,999 | 56,956 | 8.6% | 889,426 | $86,073,957,000 | $1,511,236 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $2,500,000 to $4,999,999 | 16,652 | 2.5% | 514,285 | $56,387,710,000 | $3,386,242 | $3,696 | 0.1% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $5,000,000 to $7,499,999 | 5,126 | 0.8% | 244,934 | $29,769,491,000 | $5,807,548 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $7,500,000 to $9,999,999 | 2,355 | 0.4% | 148,893 | $19,090,059,000 | $8,106,182 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $10,000,000 to $14,999,999 | 2,177 | 0.3% | 167,628 | $23,959,626,000 | $11,005,800 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $15,000,000 to $19,999,999 | 1,033 | 0.2% | 104,192 | $15,023,752,000 | $14,543,806 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $20,000,000 to $24,999,999 | 612 | 0.1% | 68,557 | $11,139,647,000 | $18,202,038 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $25,000,000 to $29,999,999 | 407 | 0.1% | 53,640 | $8,404,852,000 | $20,650,742 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $30,000,000 to $34,999,999 | 290 | 0.0% | 40,754 | $7,311,600,000 | $25,212,414 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $35,000,000 to $39,999,999 | 210 | 0.0% | 33,009 | $5,511,004,000 | $26,242,876 | $3,696 | 0.0% | $1,713 | 0.0% |

As shown in Exhibit 28, the first year and annualized costs for Industry Programs in the construction industry[52] are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the construction industry (18.8 percent). The first year costs are estimated to be

[52] The Department includes data for this sector recognizing that it may need to revise its calculations for any Final Regulatory Flexibility Analysis, pending comments received concerning proposed § 29.31. Under that section, the construction industry already has significant registered apprenticeship programs, and may be unable to participate in this new program.

7.2 percent of the average receipts per firm and the annualized costs are estimated to be 3.3 percent of the average receipts per firm for firms with revenue below $100,000.

| Exhibit 28: Construction Industry | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Small Business Size Standard: $15 million – $36.5 million | | | | | | | | | |
| | Number of Firms | Number of Firms as Percent of Total Firms in Industry | Total Number of Employees | Annual Receipts | Average Receipts per Firm | First Year Cost per Firm with 7% Discounting | First Year Cost per Firm as Percent of Receipts | Annualized Cost per Firm with 7% Discounting | Annualized Cost per Firm as Percent of Receipts |
| Firms with sales/receipts/revenue below $100,000 | 119,538 | 18.8% | N/A | $6,116,019,000 | $51,164 | $3,696 | 7.2% | $1,713 | 3.3% |
| Firms with sales/receipts/revenue of $100,000 to $499,999 | 262,870 | 41.3% | 569,763 | $67,195,728,000 | $255,623 | $3,696 | 1.4% | $1,713 | 0.7% |
| Firms with sales/receipts/revenue of $500,000 to $999,999 | 100,006 | 15.7% | 466,370 | $70,808,134,000 | $708,039 | $3,696 | 0.5% | $1,713 | 0.2% |
| Firms with sales/receipts/revenue of $1,000,000 to $2,499,999 | 85,343 | 13.4% | 742,370 | $133,337,229,000 | $1,562,369 | $3,696 | 0.2% | $1,713 | 0.1% |
| Firms with sales/receipts/revenue of $2,500,000 to $4,999,999 | 35,670 | 5.6% | 585,723 | $123,598,328,000 | $3,465,050 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $5,000,000 to $7,499,999 | 12,306 | 1.9% | 327,911 | $74,430,329,000 | $6,048,296 | $3,696 | 0.1% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $7,500,000 to $9,999,999 | 6,179 | 1.0% | 214,777 | $52,933,597,000 | $8,566,693 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $10,000,000 to $14,999,999 | 6,752 | 1.1% | 299,412 | $80,939,071,000 | $11,987,422 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $15,000,000 to $19,999,999 | 3,272 | 0.5% | 190,075 | $55,527,769,000 | $16,970,590 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $20,000,000 to $24,999,999 | 2,002 | 0.3% | 136,366 | $43,498,052,000 | $21,727,299 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $25,000,000 to $29,999,999 | 1,365 | 0.2% | 107,700 | $36,048,227,000 | $26,408,958 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $30,000,000 to $34,999,999 | 909 | 0.1% | 80,081 | $28,368,318,000 | $31,208,271 | $3,696 | 0.0% | $1,713 | 0.0% |
| Firms with sales/receipts/revenue of $35,000,000 to $39,999,999 | 638 | 0.1% | 64,770 | $22,506,667,000 | $35,276,908 | $3,696 | 0.0% | $1,713 | 0.0% |
| N/A = not available, not disclosed | | | | | | | | | |

6. Relevant Federal Rules Duplicating, Overlapping, or Conflicting With the Proposed Rule

The Department has determined that there are no federal rules that duplicate, overlap, or conflict with this proposed rule.

7. Alternatives to the Proposed Rule

The RFA directs agencies to assess the impacts that various regulatory alternatives would have on small entities and to consider ways to minimize those impacts. Accordingly, the Department considered a regulatory alternative related to the second cost component: Provision of performance data to the SRE. Under this alternative, Industry Programs would need to provide performance data once every five years rather than annually. To estimate the reduction in costs under this alternative, the Department decreased from 3 hours to 36 minutes (= 3 hours ÷ 5 years) the time burden for Industry Programs to provide performance information to their SREs.

Exhibit 29 shows the estimated cost per Industry Program for each year of the analysis period. The first year cost per Industry Program is estimated at $3,442 at a discount rate of 7 percent. The annualized cost per Industry Program is estimated at $1,441 at a discount rate of 7 percent.

| Exhibit 29: Regulatory Alternative--Submit Performance Data Every Five Years | | | | | | | |
|---|---|---|---|---|---|---|---|
| Year | Rule Familiarization | Performance Data Collection | Disclosure of Wages and Ancillary Costs | SRE's Fees | Total Cost | Number of Industry Programs | Cost per Industry Program |
| 1 | $229,715 | $137,829 | $3,675 | $7,105,000 | $7,476,219 | 2,030 | $3,683 |
| 2 | $195,088 | $254,882 | $6,797 | $7,049,000 | $7,505,766 | 3,754 | $1,999 |
| 3 | $136,358 | $336,696 | $8,979 | $6,094,500 | $6,576,533 | 4,959 | $1,326 |
| 4 | $96,978 | $394,883 | $10,530 | $5,479,000 | $5,981,391 | 5,816 | $1,028 |
| 5 | $56,127 | $428,560 | $11,428 | $4,644,000 | $5,140,115 | 6,312 | $814 |
| 6 | $80,004 | $439,898 | $11,731 | $5,360,500 | $5,892,133 | 6,479 | $909 |
| 7 | $79,212 | $485,592 | $12,949 | $5,676,000 | $6,253,753 | 7,152 | $874 |
| 8 | $76,496 | $529,657 | $14,124 | $5,928,500 | $6,548,777 | 7,801 | $839 |
| 9 | $75,025 | $572,839 | $15,276 | $6,207,500 | $6,870,639 | 8,437 | $814 |
| 10 | $73,893 | $615,341 | $35,861 | $6,490,500 | $7,215,596 | 9,063 | $796 |
| | | | | | | | |
| | | | | | | **First year cost, 7% discount rate** | **$3,442** |
| | | | | | | **Annualized cost, 7% discount rate, 10 years** | **$1,441** |

The Department decided not to pursue this alternative because a longer reporting cycle would be inconsistent with the annual reporting cycles for other workforce investment programs, and would provide less useful

information to the public. Transparency is vital to the success of Industry Programs. An annual reporting cycle would provide stakeholders with the uniform information necessary to evaluate the outcomes of this new initiative. Moreover, an annual reporting cycle would provide Industry Programs and SREs with valuable information that would enable them to assess the effectiveness of their programs and make improvements. The Department invites public comment on these estimates and whether other alternatives exist that would reduce the burden on small entities while still remaining consistent with the objectives of the proposed rule.

*C. Paperwork Reduction Act*

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* provides that a Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently-valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5 and 1320.6(a).

As explained in the Background section, above, the Department submitted an information collection request to obtain OMB approval for the information collections foreshadowed by the TEN. The Department will use that form as a mechanism to enable entities to seek a favorable determination about whether the information provided is consistent with the criteria outlined in the TEN.

Concurrent with the publication of this proposed rule, the Department has submitted a second ICR to request OMB approval for the information collections in this proposed rule and its associated application (the application). The application associated with this rule is consistent with the form used for the TEN. Information collections subject to OMB approval under the PRA in this proposed rule can be found in §§ 29.21(a), 29.21(c)(2), 29.22(a)(1), 29.22(a)(2), 29.22(a)(4)(vii), 29.22(a)(4)(ix), 29.22(b), 29.22(c), and 29.22(j), and additional information about each of the requirements may be found in relevant portions of the Section-by-Section discussed earlier in this preamble.

Prior to final adoption, the Department provides members of the public an opportunity to comment on proposed information collections. In addition to filing comments on any aspect of this rule, the interested parties may also file comments on the information collections contained in or supporting this proposed rule. The Department and OMB are particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection is summarized as follows:

*Agency:* DOL–ETA.

*Title of Collection:* Industry-Recognized Apprenticeship Program Standards Recognition Entity Regulation and Application Form.

*OMB ICR Reference Number:* 201905–1205–007.

*Affected Public:* State and Local Governments; Private Sector—businesses or other for-profits and not-for-profit institutions.

*Total Estimated Number of Respondents:* 3,794.

*Total Estimated Number of Responses:* 6,795.

*Total Estimated Annual Time Burden:* 41,592 hours.

*Total Estimated Annual Other Costs Burden:* $0.

*D. Executive Order 13132: Federalism*

This NPRM, if finalized, does not have federalism implications because it 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. Accordingly, E.O. 13132, Federalism, requires no further agency action or analysis.

*E. Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), *see* 2 U.S.C. 1532, requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed agency rule that may result in $100 million or more in expenditures (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector.

This NPRM, if finalized, does not exceed the $100 million expenditure in any 1 year when adjusted for inflation, and this rulemaking does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply, and the Department has not prepared a statement under the Act.

*F. Executive Order 13175 (Indian Tribal Governments)*

The Department has reviewed this proposed rule in accordance with E.O. 13175 and has determined that it does not have tribal implications. The proposed rule 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.

**List of Subjects in 29 CFR Part 29**

Apprenticeship programs, Apprentice agreements and complaints, Apprenticeability criteria, Program standards, Registration and deregistration, Sponsor eligibility, State Apprenticeship Agency recognition and derecognition.

For the reasons stated in the preamble, the Department proposes to amend 29 CFR part 29 as follows:

## PART 29—LABOR STANDARDS FOR THE REGISTRATION OF APPRENTICESHIP PROGRAMS; STANDARDS RECOGNITION ENTITIES OF INDUSTRY-RECOGNIZED APPRENTICESHIP PROGRAMS

■ 1. The authority part 29 continues to read as follows:

**Authority:** Section 1, 50 Stat. 664, as amended (29 U.S.C. 50; 40 U.S.C. 276c; 5 U.S.C. 301) Reorganization Plan No. 14 of 1950, 64 Stat. 1267 (5 U.S.C. App. P. 534).

### §§ 29.1 through 29.14 [Designated as Subpart A]

■ 2. Designate §§ 29.1 through 29.14 as Subpart A and add a subpart heading to read as follows:

### Subpart A—Registered Apprenticeship Programs

■ 3. Amend § 29.1 by revising paragraph (b) to read as follows:

**§ 29.1 Purpose and scope for the Registered Apprenticeship Program.**

* * * * *

(b) The purpose of this subpart is to set forth labor standards to safeguard the welfare of apprentices, promote apprenticeship opportunity, and to extend the application of such standards by prescribing policies and procedures concerning the registration, for certain Federal purposes, of acceptable apprenticeship programs with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship. These labor standards, policies and procedures cover the registration, cancellation and deregistration of apprenticeship programs and of apprenticeship agreements; the recognition of a State agency as an authorized agency for registering apprenticeship programs for certain Federal purposes; and matters relating thereto.

■ 4. Amend § 29.2 by adding introductory text and revising the definitions of ''Apprenticeship program,'' ''Registration agency,'' and ''Technical assistance'' to read as follows:

**§ 29.2 Definitions**

For the purpose of this subpart:

* * * * *

*Apprenticeship program* means a plan containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, as required under 29 CFR part 29 subpart A, and part 30, including such matters as the requirement for a written apprenticeship agreement.

* * * * *

*Registration agency* means the Office of Apprenticeship or a recognized State Apprenticeship Agency that has responsibility for registering apprenticeship programs and apprentices; providing technical assistance; conducting reviews for compliance with 29 CFR part 29 subpart A, and part 30 and quality assurance assessments.

* * * * *

*Technical assistance* means guidance provided by Registration Agency staff in the development, revision, amendment, or processing of a potential or current program sponsor's Standards of Apprenticeship, Apprenticeship Agreements, or advice or consultation with a program sponsor to further compliance with this subpart or guidance from the Office of Apprenticeship to a State Apprenticeship Agency on how to remedy nonconformity with this subpart.

* * * * *

■ 5. Amend § 29.3 by revising paragraph (b)(1), paragraph (g) introductory text, and paragraph (h) to read as follows:

**§ 29.3 Eligibility and procedure for registration of an apprenticeship program**

* * * * *

(b) * * *

(1) It is in conformity with the requirements of this subpart and the training is in an apprenticeable occupation having the characteristics set forth in § 29.4; and

* * * * *

(g) Applications for new programs that the Registration Agency determines meet the required standards for program registration must be given provisional approval for a period of 1 year. The Registration Agency must review all new programs for quality and for conformity with the requirements of this subpart at the end of the first year after registration. At that time:

* * * * *

(h) The Registration Agency must review all programs for quality and for conformity with the requirements of this subpart at the end of the first full training cycle. A satisfactory review of a provisionally approved program will result in conversion of provisional approval to permanent registration. Subsequent reviews must be conducted no less frequently than every five years. Programs not in operation or not conforming to the regulations must be recommended for deregistration procedures.

* * * * *

■ 6. Amend § 29.6 by revising paragraph (b)(2) to read as follows:

**§ 29.6 Program performance standards.**

* * * * *

(b) * * *

(2) Any additional tools and factors used by the Registration Agency in evaluating program performance must adhere to the goals and policies of the Department articulated in this subpart and in guidance issued by the Office of Apprenticeship.

* * * * *

■ 7. Amend § 29.10 by revising paragraph (a)(2) to read as follows:

**§ 29.10 Hearings for deregistration.**

(a) * * *

(2) A statement of the provisions of this subpart pursuant to which the hearing is to be held; and

* * * * *

■ 8. Amend § 29.11 by revising the introductory text to read as follows:

**§ 29.11 Limitations.**

Nothing in this subpart or in any apprenticeship agreement will operate to invalidate:

* * * * *

■ 9. Amend § 29.13 by revising paragraphs (a)(1), (b)(1), (c), paragraph (e) introductory text, and paragraph (e)(4) to read as follows:

**§ 29.13 Recognition of State Apprenticeship Agencies.**

(a) * * *

(1) The State Apprenticeship Agency must submit a State apprenticeship law, whether instituted through statute, Executive Order, regulation, or other means, that conforms to the requirements of 29 CFR part 29 subpart A, and part 30;

* * * * *

(b) * * *

(1) Establish and maintain an administrative entity (the State Apprenticeship Agency) that is capable of performing the functions of a Registration Agency under 29 CFR part 29 subpart A;

* * * * *

(c) Application for recognition. A State Apprenticeship Agency desiring new or continued recognition as a Registration Agency must submit to the Administrator of the Office of Apprenticeship the documentation specified in paragraph (a) of this section. A currently recognized State desiring continued recognition by the Office of Apprenticeship must submit to the Administrator of the Office of Apprenticeship the documentation specified in paragraph (a) of this section within 2 years of the effective date of the final rule. The recognition of a currently recognized State shall continue for up to 2 years from the effective date of this regulation and during any extension period granted by the Administrator. An extension of time within which to comply with the requirements of this subpart may be granted by the Administrator for good cause upon written request by the State, but the Administrator shall not extend the time for submission of the documentation required by paragraph (a) of this section. Upon approval of the State Apprenticeship Agency's application for recognition and any subsequent modifications to this application as required under paragraph (b)(9) of this section, the Administrator shall so notify the State Apprenticeship Agency in writing.

* * * * *

(e) *Compliance.* The Office of Apprenticeship will monitor a State Registration Agency for compliance

with the recognition requirements of this subpart through:

* * * * *

(4) Determination whether, based on the review performed under paragraphs (e)(1), (2), and (3) of this section, the State Registration Agency is in compliance with part 29 subpart A. Notice to the State Registration Agency of the determination will be given within 45 days of receipt of proposed modifications to legislation, regulations, policies, and/or operational procedures required to be submitted under paragraphs (a)(1), (a)(5) and (b)(9) of this section.

* * * * *

■ 10. Amend § 29.14 by revising the introductory text and paragraphs (e)(1) and (i) to read as follows:

**§ 29.14 Derecognition of State Apprenticeship Agencies.**

The recognition for Federal purposes of a State Apprenticeship Agency may be withdrawn for the failure to fulfill, or operate in conformity with, the requirements of part 29 subpart A, and part 30. Derecognition proceedings for reasonable cause will be instituted in accordance with the following:

* * * * *

(e) * * *

(1) The Office of Apprenticeship may grant the request for registration on an interim basis. Continued recognition will be contingent upon its finding that the State apprenticeship program is operating in accordance with the requirements of this subpart and of 29 CFR part 30.

* * * * *

(i) A State Apprenticeship Agency whose recognition has been withdrawn under this subpart may have its recognition reinstated upon presentation of adequate evidence that it has fulfilled the requirements established in §§ 29.13(i) and 29.14(g) and (h) and is operating in conformity with the requirements of this subpart.

* * * * *

■ 11. Add subpart B to read as follows:

## Subpart B—Standards Recognition Entities of Industry-Recognized Apprenticeship Programs

Sec.

29.20 Standards Recognition Entities, Industry Programs, Administrator, Apprentices.
29.21 Becoming a Standards Recognition Entity.
29.22 Responsibilities and Requirements of Standards Recognition Entities.
29.23 Quality Assurance.
29.24 Publication of Standards Recognition Entities and Industry Programs.
29.25 Expedited Process for Recognizing Industry Programs as Registered Apprenticeship Programs.
29.26 Complaints against Standards Recognition Entities.
29.27 Review of a Standards Recognition Entity.
29.28 Suspension and Derecognition of a Standards Recognition Entity.
29.29 Derecognition's Effect on Industry Programs.
29.30 Requests for Administrative Review.
29.31 Scope and Deconfliction between Apprenticeship Programs under Subpart A of This Part and This Subpart B.
Appendix A to Subpart B—Industry-Recognized Apprenticeship Program Standards Recognition Entity Application Form

**§ 29.20 Standards Recognition Entities, Industry Programs, Administrator, and Apprentices.**

For the purpose of this subpart, which establishes a new apprenticeship pathway distinct from the registered apprenticeship programs described in subpart A of this part:

(a) A Standards Recognition Entity of Industry-Recognized Apprenticeship Programs is an entity that is qualified to recognize apprenticeship programs as Industry-Recognized Apprenticeship Programs under § 29.21 and that has been recognized by the Department of Labor.

(1) Types of entities that can become Standards Recognition Entities include:

(i) Trade, industry, and employer groups or associations;

(ii) Educational institutions, such as universities or community colleges;

(iii) State and local government agencies or entities;

(iv) Non-profit organizations;

(v) Unions;

(vi) Joint labor-management organizations; or

(vii) A consortium or partnership of entities such as those above.

(b) Industry-Recognized Apprenticeship Programs (''Industry Programs'') are high-quality apprenticeship programs, wherein an individual obtains workplace-relevant knowledge and progressively advancing skills, that include a paid-work component and an educational or instructional component, and that result in an industry-recognized credential. An Industry Program is developed or delivered by entities such as trade and industry groups, companies, non-profit organizations, educational institutions, unions, and joint labor-management organizations. An Industry Program is one that has been recognized as a high-quality program by a Standards Recognition Entity pursuant to § 29.22(a)(4)(i)–(ix).

(c) The Administrator is the Administrator of the Department of Labor's Office of Apprenticeship, or any person specifically designated by the Administrator.

(d) An apprentice is an individual participating in an Industry Program.

**§ 29.21 Becoming a Standards Recognition Entity.**

(a) To apply to be a Standards Recognition Entity, an entity (or consortium or partnership of entities) must complete and submit an application to the Administrator for recognition as an Industry-Recognized Apprenticeship Program Standards Recognition Entity.

(b) An entity is qualified to be a Standards Recognition Entity if it demonstrates in its application that:

(1) It has the expertise to set standards, through a consensus-based process involving industry experts, for the requisite training, structure, and curricula for apprenticeship programs in the industry(ies) or occupational area(s) in which it seeks to be a Standards Recognition Entity.

(i) The requirements in § 29.21(b)(1) may be met through an SRE's past or current standard-setting activities and need only engender new activity if necessary to comply with this rule.

(ii) [Reserved]

(2) It has the capacity and quality assurance processes and procedures sufficient to comply with § 29.22(a)(4), given the scope of the Industry Programs to be recognized.

(3) It meets the other requirements of this subpart.

(c) The Administrator will recognize an entity as a Standards Recognition Entity if it is qualified under paragraph (b) of this section.

(1) A Standards Recognition Entity will be recognized for 5 years, and must reapply on or before the date of expiration if it seeks re-recognition.

(2) A Standards Recognition Entity must notify the Administrator and provide all related material information if:

(i) It makes a substantive change to its recognition processes, or any major change that could affect the operations of the program, such as involvement in lawsuits that materially affect the Standards Recognition Entity, changes in legal status, or any other change that materially affects the Standards Recognition Entity's ability to function in its recognition capacity; or

(ii) It seeks to recognize apprenticeship programs in additional industries or occupational areas.

(iii) Notice must be provided within 30 days of the circumstances described in paragraphs (2)(i)–(ii) of this section. In light of the information received, the

Administrator will evaluate whether the Standards Recognition Entity remains qualified for recognition under paragraph (b), including its qualification to recognize programs in the new industries or occupational areas identified under paragraph (c)(2)(ii) of this section.

(d) *Requirements for denials of recognition.* (1) A denial of recognition must be in writing and must state the reason(s) for denial. The notice must specify the remedies that must be undertaken prior to consideration of a resubmitted application.

(2) Notice must be sent by certified mail, return receipt requested, and must state that a request for administrative review may be made within 30 calendar days of receipt of the notice.

(3) The notice must explain that a request for administrative review must be made by mail and addressed to the Chief Administrative Law Judge for the Department. The mailing address is Office of Administrative Law Judges, U.S. Department of Labor, Suite 400 North, 800 K Street NW, Washington, DC 20001–8002.

**§ 29.22 Responsibilities and Requirements of Standards Recognition Entities.**

(a) A Standards Recognition Entity must:

(1) Recognize or reject an apprenticeship program seeking recognition in a timely manner;

(2) Inform the Administrator within 30 days when it has recognized or terminated the recognition of an Industry Program, and include the name of the program;

(3) Provide the Administrator any data or information the Administrator is expressly authorized to collect under this subpart; and

(4) Only recognize and maintain the recognition of Industry Programs that meet the following requirements:

(i) The Industry Program must train apprentices for employment in jobs that require specialized knowledge and experience and involve the performance of complex tasks.

(ii) The Industry Program has structured work experiences, and appropriate classroom or related instruction adequate to help apprentices achieve proficiency and earn credential(s); involves an employment relationship; and provides apprentices progressively advancing industry-essential skills.

(iii) The Industry Program ensures that, where appropriate, apprentices receive credit for prior knowledge and experience relevant to the instruction of the Industry Program.

(iv) The Industry Program provides apprentices industry-recognized credential(s) during participation in or upon completion of the Industry Program.

(v) The Industry Program provides a safe working environment for apprentices that adheres to all applicable Federal, State, and local safety laws and regulations.

(vi) The Industry Program provides apprentices structured mentorship opportunities to ensure apprentices have additional guidance on the progress of their training and their employability.

(vii) The Industry Program ensures apprentices are paid at least the applicable Federal, State, or local minimum wage. The Industry Program must provide a written notice to apprentices of what wages apprentices will receive and under what circumstances apprentices' wages will increase.

(viii) The Industry Program affirms its adherence to all applicable Federal, State, and local laws pertaining to Equal Employment Opportunity (EEO).

(ix) The Industry Program discloses, prior to when apprentices agree to participate in the program, any ancillary costs or expenses that will be charged to apprentices (such as costs related to tools or educational materials).

(b) A Standards Recognition Entity must validate its Industry Programs' compliance with paragraph (a)(4) of this section when it provides the Administrator with notice of recognition under paragraph (a)(2) of this section.

(c) A Standards Recognition Entity must disclose the credential(s) that apprentices will earn during their successful participation in or upon completion of an Industry Program.

(d) A Standards Recognition Entity's policy and procedures for recognizing Industry Programs must be sufficiently detailed that programs will be assured of equitable treatment, and will be evaluated based on their merits. A Standards Recognition Entity must ensure that its decisions are based on objective criteria, and are impartial and confidential.

(e) An entity recognized as a Standards Recognition Entity must either not recognize its own apprenticeship program(s), or it must provide for impartiality, and mitigate any potential conflicts of interest, via specific policies, processes, procedures, and/or structures, which must be described in detail in the Standards Recognition Entity application.

(f) A Standards Recognition Entity must either not offer services, including consultative services, to Industry Programs that would impact the impartiality of the Standards Recognition Entity's recognition decisions, or it must provide for impartiality, and mitigate any potential conflicts of interest, via specific policies, processes, procedures, and/or structures, which must be described in detail in the Standards Recognition Entity application.

(g) The recognition of an Industry Program may last no longer than 5 years. A Standards Recognition Entity may not re-recognize an Industry Program without the Industry Program seeking re-recognition.

(h) A Standards Recognition Entity must remain in an ongoing quality-control relationship with the Industry Programs it has recognized. The specific means and nature of the relationship between the Industry Program and Standards Recognition Entity will be defined by the Standards Recognition Entity, provided the relationship:

(1) Does in fact result in reasonable and effective quality control that includes, as appropriate, consideration of apprentices' credential attainment, program completion, and job placement rates;

(2) Does not place barriers on the Industry Program receiving recognition from another Standards Recognition Entity; and

(3) Does not conflict with this subpart or violate any applicable Federal, State, or local law.

(i) Participating as a Standards Recognition Entity under this subpart does not make the Standards Recognition Entity a joint employer with entities that develop or deliver Industry Programs.

(j) Each year, a Standards Recognition Entity must make publicly available the following information on each Industry Program it recognizes:

(1) Up-to-date contact information for each program;

(2) The total number of apprentices annually enrolled in each program;

(3) The total number of apprentices who successfully completed the program annually;

(4) The annual completion rate for apprentices;

(5) The median length of time for program completion; and

(6) The post-apprenticeship employment rate of apprentices at completion.

(k) A Standards Recognition Entity must have policies and procedures that require Industry Programs' adherence to applicable Federal, State, and local laws pertaining to Equal Employment Opportunity, and must facilitate such adherence through the Standard Recognition Entity's policies and procedures regarding potential

harassment, intimidation, and retaliation (such as the provision of anti-harassment training, and a process for handling equal employment opportunity and harassment complaints from apprentices); must have policies and procedures that reflect comprehensive outreach strategies to reach diverse populations that may participate in Industry Programs; and must assign responsibility to an individual to assist Industry Programs with matters relating to this paragraph.

**§ 29.23 Quality Assurance.**

(a) The Administrator may request and review materials from Standards Recognition Entities to ascertain Standards Recognition Entities' conformity with the requirements of this subpart.

(b) Standards Recognition Entities should provide requested materials, consistent with § 29.22(a)(3).

**§ 29.24 Publication of Standards Recognition Entities and Industry Programs.**

The Administrator will make publicly available a list of Standards Recognition Entities and the Industry Programs they recognize.

**§ 29.25 Expedited Process for Recognizing Industry Programs as Registered Apprenticeship Programs.**

(a) An Industry Program may become a registered apprenticeship program by providing any program information the Administrator finds necessary to determine that the Industry Program also fully meets the requirements of part 29 subpart A, and part 30, of this title.

(b) The Administrator may request additional information necessary to determine if the Industry Program meets those requirements.

(c) The Administrator will make a decision within 60 days of receiving all necessary information.

**§ 29.26 Complaints against Standards Recognition Entities.**

(a) A complaint arising from a Standards Recognition Entity's compliance with this subpart may be submitted by an apprentice, the apprentice's authorized representative, a personnel certification body, an employer, a Registered Program representative, or an Industry Program to the Administrator for review.

(b) The complaint must be in writing and must be submitted within 60 days of the circumstances giving rise to the complaint. It must set forth the specific matter(s) complained of, together with relevant facts and circumstances. Copies of pertinent documents and correspondence must accompany the complaint.

(c) Complaints under this section are addressed exclusively through the review process outlined in § 29.27.

(d) Nothing in this section precludes a complainant from pursuing any remedy authorized under Federal, State, or local law.

**§ 29.27 Review of a Standards Recognition Entity.**

(a) The Administrator may initiate review of a Standards Recognition Entity if it receives information indicating that:

(1) The Standards Recognition Entity is not in substantial compliance with this subpart; or

(2) The Standards Recognition Entity is no longer capable of continuing as a Standards Recognition Entity.

(b) Before reaching a decision concerning its review, the Administrator will provide the Standards Recognition Entity written notice of the review, by certified mail with return receipt requested, and an opportunity to provide information for the review. Such notice must include a statement of the basis for review, including potential areas of substantial noncompliance and a detailed description of the information supporting review under paragraphs (a)(1) or (a)(2) of this section, or both.

(c) Upon conclusion of the Administrator's review, the Administrator will give written notice to the Standards Recognition Entity of its decision to either take no action against the Standards Recognition Entity, or to suspend the Standards Recognition Entity as provided under § 29.28.

**§ 29.28 Suspension and Derecognition of a Standards Recognition Entity.**

The Administrator may suspend a Standards Recognition Entity for 45 calendar days based on the Administrator's review and determination that any of the situations described in § 29.27(a)(1) or (a)(2) exist.

(a) The Administrator must provide notice in accord with § 29.21(d)(2)–(3), but stating that a request for administrative review may be made within 45 calendar days of receipt of the notice.

(b) The notice must set forth an explanation of the Administrator's decision, including identified areas of substantial noncompliance and necessary remedial actions, and must explain that the Administrator will derecognize the Standards Recognition Entity in 45 calendar days unless remedial action is taken or a request for administrative review is made.

(c) If, within the 45-day period, the Standards Recognition Entity:

(1) Specifies its proposed remedial actions and commits itself to remedying the identified areas of substantial noncompliance, the Administrator will extend the 45-day period to allow a reasonable time for the Standards Recognition Entity to implement remedial actions.

(i) If the Administrator subsequently determines that the Standards Recognition Entity has remedied the identified areas of substantial noncompliance, the Administrator must notify the Standards Recognition Entity, and the suspension will end.

(ii) If the Administrator subsequently determines that the Standards Recognition Entity has not remedied the identified areas of substantial noncompliance, after the close of the 45-day period and any extensions previously allowed by the Administrator the Administrator will derecognize the Standards Recognition Entity and must notify the Standards Recognition Entity in writing and specify the reasons for its determination. Notice must comply with § 29.21(d)(2)–(3).

(2) Makes a request for administrative review, then the Administrator shall refer the matter to the Office of Administrative Law Judges to be addressed in accord with § 29.30.

(3) Does not act under paragraphs (c)(1) or (c)(2) of this section, the Administrator will derecognize the Standards Recognition Entity.

(d) During the suspension:

(1) The Standards Recognition Entity is barred from recognizing new programs.

(2) The Administrator will publish the Standards Recognition Entity's suspension on the public list described in § 29.24.

**§ 29.29 Derecognition's Effect on Industry Programs.**

(a) Following its Standards Recognition Entity's derecognition, an Industry Program will maintain its status until 1 year after the Administrator's decision derecognizing the Industry Program's Standards Recognition Entity becomes final, including any appeals. At the end of 1 year, the Industry Program will lose its status unless it is already recognized by another Standards Recognition Entity recognized under this subpart.

(b) Losing Industry Program status has no effect on an apprenticeship program's registration under subpart A.

**§ 29.30 Requests for Administrative Review.**

(a) Within 30 calendar days of the filing of a request for administrative

review, the Administrator must prepare an administrative record for submission to the Administrative Law Judge designated by the Chief Administrative Law Judge.

(b) The procedures contained in 29 CFR part 18 will apply to the disposition of the request for review except that:

(1) The Administrative Law Judge will receive, and make part of the record, documentary evidence offered by any party and accepted at the hearing. Copies thereof will be made available by the party submitting the documentary evidence to any party to the hearing upon request.

(2) Technical rules of evidence will not apply to hearings conducted under this subpart, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination will be applied, where reasonably necessary, by the Administrative Law Judge conducting the hearing. The Administrative Law Judge may exclude irrelevant, immaterial, or unduly repetitious evidence.

(c) The Administrative Law Judge should submit proposed findings, a recommended decision, and a certified record of the proceedings to the Administrative Review Board, Standards Recognition Entity, and Administrator within 90 calendar days after the close of the record.

(d) Within 20 days of the receipt of the recommended decision, any party may file exceptions. Any party may file a response to the exceptions filed by another party within 10 days of receipt of the exceptions. All exceptions and responses must be filed with the Administrative Review Board with copies served on all parties and amici curiae.

(e) After the close of the period for filing exceptions and responses, the Administrative Review Board may issue a briefing schedule or may decide the matter on the record before it. The Administrative Review Board must decide any case it accepts for review within 180 days of the close of the record. If not so decided, the Administrative Law Judge's decision constitutes final agency action. The decision of the Administrative Review Board constitutes final agency action by the Department.

### § 29.31 Scope and Deconfliction between Apprenticeship Programs under Subpart A of This Part and This Subpart B

(a) The Department will only recognize Standards Recognition Entities that seek to recognize Industry Programs in sectors without significant registered apprenticeship opportunities.

(b) For purposes of this section, a sector with significant registered apprenticeship opportunities is one that has had more than 25% of all federal registered apprentices per year on average over the prior 5-year period, or that has had more than 100,000 federal registered apprentices per year on average over the prior 5-year period, or both, as reported through the prior fiscal year by the Office of Apprenticeship.

## APPENDIX A TO SUBPART B—INDUSTRY-RECOGNIZED APPRENTICESHIP PROGRAM STANDARDS RECOGNITION ENTITY APPLICATION FORM

BILLING CODE 4510–FR–P

**Industry-Recognized Apprenticeship Program**
**Standards Recognition Entity Application Form**

**U.S. Department of Labor**
Office of Apprenticeship
Employment and Training Administration
OMB No. 1205-XXXX
Expires XX/XX/XXXX

**Who should use this form?**

Consistent with 29 CFR 29 subpart B, prospective Standards Recognition Entities (SREs) that intend to recognize the high quality of eligible industry-recognized apprenticeship programs (Industry-Recognized Apprenticeship Programs, or programs) developed by, or on behalf of, sponsoring employers or other organizations may submit the information requested in this form to the U.S. Department of Labor (Department or DOL). Types of entities eligible to become SREs include but are not limited to trade, industry, and employer groups or associations, companies, certification and accreditation bodies, educational institutions (such as universities or community colleges), state and local government agencies or entities, non-profit organizations, unions, joint labor-management organizations, or consortia or partnerships of entities such as those listed above. The Department will not accept applications from entities seeking to recognize apprenticeship programs in the construction industry or in the U.S. Military.[1] Based upon the information submitted, the Department will determine whether the applicant is qualified to act as an SRE of Industry-Recognized Apprenticeship Programs.

**How should the form be submitted?**

The form must be submitted electronically using the online application system at www.apprenticeship.gov.

**When should this form be submitted?**

An entity must file this form when it first seeks recognition from the Department that it is qualified to act as an SRE of Industry-Recognized Apprenticeship Programs. If the Department recognizes the SRE, the SRE must request updated recognition from the Department using this form upon the earlier of: (1) making a substantive change to its recognition processes or seeking to recognize programs in additional industry(ies) or occupational areas, or (2) within five years of its most recent favorable recognition.

## Section I – Standards Recognition Entity Identifying Information

| | | |
|---|---|---|
| **Employer Identification Number of Standards Recognition Entity** | **Website** | |
| **Name of Standards Recognition Entity** | | |
| **Address** | | |
| **City** | **State** | **Zip Code** |
| **Contact Person** | **E-Mail Address** | **Telephone Number** |

**Related Bodies** (foundations, affiliates, parent/subordinate organizations): _____
Please list any confirmed or potential partners who will be engaged in your recognition activities and describe their roles: _____

**Attachment 1:** Documentation of organization's legal status. (Examples of acceptable documents: Articles of Incorporation, SEC filings, Tax ID)

**Scope of Apprenticeship Program(s):** Please list the industries, occupations, and all credentials relating to programs your organization is seeking to recognize:
Please affirm that your organization will not recognize programs in the construction industry or in the U.S. Military:
- ☐ Yes
- ☐ No

Does your organization sell, offer, or provide or plan to sell, offer, or provide off-the-shelf or custom apprenticeship programs or elements of apprenticeship programs (e.g., training plans, mentoring programs)?
- ☐ Yes
- ☐ No

Where do you plan to recognize programs?
- ☐ National–in all 50 U.S. states and territories
- ☐ Regional–in at least three U.S. states/territories that are adjacent to each other
- ☐ State–in multiple non-adjacent U.S. states/territories or a single state
- ☐ Local–in multiple or single municipalities only
- ☐ Other (please specify)

[1] An apprenticeship program is in the construction industry if it equips apprentices to provide labor whereby materials and constituent parts may be combined on a building site to form, make, or build a structure. *See Union Asphalts & Roadoils, Inc. v. MO-KAN Teamsters Pension Fund*, 857 F.2d 1230 (8th Cir. 1988). An apprenticeship program is in the U.S. Military if it provides a credential to members of the U.S. Military based on their military training and experience.

## Section II – Capabilities and Experience of the Standards Recognition Entity

**A.** **Organization Operational Information:** Please summarize your organization's operations, covering all of the following elements:

- Your organizational structure (ATTACHMENT REQUIRED – ORG CHART), including if appropriate given your operations:
  - Lines of authority and responsibility of those associated with apprenticeship programs and any credentials your organization offers
  - Depiction of separation between the individuals who create or design your organization's apprenticeship program(s), if any, and the individuals who would assess such program(s) and make recognition decision(s)
- CONDITIONAL QUESTION: If your organization also sells or otherwise offers off-the-shelf or custom apprenticeship programs, program elements (e.g., training plans), and/or services, describe in detail any organization structures or reporting relationships that separate or otherwise ensure your organization's objectivity concerning the programs/elements/services it offers and the programs it recognizes and monitors.
- How your organization has acquired, or has developed plans to acquire, the financial resources to function as an SRE for the next five years (ATTACHMENT REQUIRED – FINANCIAL STATEMENT).

**B.** **Organizational Qualifications:** Please describe your organization's qualifications, experience, capability, and validity in performing as a Standards Recognition Entity, covering all of the following elements:

- Your organization's qualifications (in detail) to serve as a Standards Recognition Entity of high-quality Industry-Recognized Apprenticeship Programs, and to evaluate the training, structure, and curricula for Industry-Recognized Apprenticeship Programs in a given industry sector or occupational cluster.
- How your organization has the standing to serve as a Standards Recognition Entity of Industry-Recognized Apprenticeship Programs offering apprenticeships by industry or occupation. As part of your response, you should explain your organization's capability for obtaining substantial, broad-based input, support, and consensus from industry experts concerning the standards your organization will set.
- Your organization's experience, if any, conducting recognition or certification activities of similar work-based learning, training, and/or credentialing programs.
- The names and qualifications/competencies of the individuals who will be directly involved in the recognition process for programs your organization will recognize and monitor.

## Section III – Evaluating and Monitoring Elements of a High Quality Apprenticeship Program

Please describe your organization's specific policies and procedures for evaluating and monitoring high-quality Industry-Recognized Apprenticeship Programs so that the programs it recognizes and monitors have documented and verifiable evidence of all elements of a high-quality apprenticeship program.

**A.** **Paid Work Component:** Please describe your organization's specific policies and procedures for evaluating and monitoring each program's Paid Work Component, specifically that each program:

- Has evidence that apprentices will be paid at least the minimum wage (according to Federal, state, and local requirements) as part of their employment.
- Has defined circumstances under which the wages of its apprentices will increase; will provide written notice to apprentices of those circumstances, and of their wages; and will disclose, before apprentices agree to participate in the program, any ancillary costs or expenses they would be charged.

**B.** **On-the-Job Instruction/Work Experience:** Please describe your organization's specific policies and procedures for evaluating and monitoring each program's On-the-Job Instruction/Work Experience, specifically that each program:

- Has documented and structured work experiences for apprentices.
- Will provide structured mentorship opportunities for apprentices.

**C.** **Classroom Instruction, Educational Partners, and Educational Credentials:** Please describe your organization's specific policies and procedures for evaluating and monitoring each program's classroom or related instruction—including apprentices' receipt of credit for prior knowledge and experience relevant to instruction, where appropriate—and educational partners and educational credentials if any, specifically so that each program:

- Will provide or arrange for appropriate classroom or related instruction that helps apprentices gain occupational proficiency and earn occupational certifications, college credit, and/or other credentials. If the Industry-Recognized Apprenticeship Program will not provide such instruction directly, that program must identify potential educational partners, such as a vendor, community college, occupational school, or any other entities qualified to provide the instruction and ensure it is integrated with work experience, and must provide the following information about each of those entities:
  - Potential educational partners for related instruction
  - Address(es) of potential educational partners
  - Type of instruction (college class, vocation education, online, etc.)
  - Point of contact(s) at the institution(s)
  - Credential or certification(s) gained at educational institution

Also summarize how your proposed evaluative processes support the development of appropriate instruction related to work experience.

**D.** **Occupations and Occupational Credentials:** Please describe your organization's specific policies and procedures for evaluating and monitoring each program's occupations and occupational credentials, specifically that each program:

- Provides an industry-recognized credential to apprentices during their successful participation in or upon completing the program.
- Has documented information about the credential(s) it offers in its program, including a description of generally-accepted credentials for the industry, the benefits that such credentials are expected to confer, and whether the program will lead to the receipt of one of those existing credentials or qualify apprentices to sit for a related exam.

In sectors where independent credentials exist and are not issued by a program, the program must identify the credential that will be offered, including the following:

- Occupation(s)
- O*NET Code[2] for occupation(s)
- Name of credential(s)
- Organization issuing the credential(s)
- Average time required to obtain credential(s)

Please describe your organization's process for disclosing the credential(s) associated with any program that is recognized.

**E.** **Equal Employment Opportunity (EEO) Requirements:** Please describe your organization's specific policies and procedures for evaluating and monitoring each program given your own EEO policies and procedures, specifically that each program:

- Will affirm its adherence to all applicable Federal, state, and local laws pertaining to Equal Employment Opportunity.
- Will operate under your policies and procedures, as applicable, regarding potential harassment, intimidation, and retaliation.
- Will operate under your policies and procedures, as applicable, that reflect your comprehensive outreach strategies to reach diverse populations.

In addition, please explain your approach for assigning responsibility to an individual to assist programs with EEO requirements.

## Section IV – Policies and Procedures

**A.** **General Recognition Processes:** Please describe your organization's proposed general processes, policies, and procedures for recognizing and monitoring high-quality Industry-Recognized Apprenticeship Programs, covering all of the following elements:

- Your organization's proposed processes for recognition of high-quality Industry-Recognized Apprenticeship Programs, and removal of such recognition, in their industries or occupational clusters, and for notifying the Department of such decisions.
- The different types of recognition status (e.g. probationary, preliminary, etc.).
- The recognition cycle and the rationale/evidence used to determine the length of cycle.
- How your organization's proposed recognition process will result in programs consistent with the competency-based standards your organization will set.
- How your organization will require the programs it recognizes to provide a safe working environment for apprentices that adheres to all applicable Federal, state, and local safety laws.
- ATTACHMENTS REQUIRED:
  - Copy of the application a program must submit to your organization for recognition, as well as any instructions.
  - Template of the certificate to be issued when recognition is awarded. Both of the following items must be included on the final certificate:
    - The effective date of the recognition decision
    - The length of the recognition
  - Copy (or template) of your organization's generic agreement with program(s). Agreement must include:
    - Commitment to fulfill the requirements of the recognition to be offered
    - Access to personnel, facilities, and documents as needed
    - Claim recognition(s) are only to the granted scope
    - Affirmation that your organization does not offer other services, including consultative services, that would affect the impartiality of the program(s) OR if your organization has offered other services to the program(s), affirmation that your organization has provided for impartiality and mitigated any potential conflicts of interest via specific policies, processes, procedures, and/or structures

[2] The O*NET Program is the nation's primary source of occupational information. Valid data are essential to understanding the rapidly changing nature of work and how it impacts the workforce and U.S. economy. Applicants may find the O*NET code for the occupations they plan to recognize at https://www.onetonline.org/.

**B.** **Data and Records Collection, Management, and Retention:** Please summarize the approach, infrastructure, and systems your organization will maintain to collect data and report on required elements of your recognition program, covering all of the following elements:

- Your process for providing documentation of a substantive change made to your organization's recognition processes, or of seeking to recognize programs in additional industry(ies) or occupational areas, or of any major change that could affect the operations of your recognition program, after DOL recognition has been granted. Note that this must be provided to the Department within 30 days of the change. (For example, notice should be provided of involvement in lawsuits that materially affect the Standards Recognition Entity, changes in legal status, or any other change that materially affects the Standards Recognition Entity's ability to function in its recognition capacity.)
- Your process, systems, policies, and procedures for maintaining all records relating to the following for a term of five (5) years after the termination of a program:
  - Personnel related to each program you recognize and monitor
  - Subcontracting agreements
  - Formal complaints and appeals (including those currently in the program's possession)
  - Legal status
- Your policies and procedures for retaining and making available to the public up-to-date contact information for all Industry-Recognized Apprenticeship Programs your organization recognizes for the term of DOL's recognition.

Please summarize the approach your organization will take to ensure that your organization will retain and make available to the public performance- and outcome-related metrics and data for each of the programs it recognizes. These performance- and outcome-related metrics should include the following and be reported each year:

- The total number of apprentices annually enrolled in each program;
- Total number of apprentices who successfully completed the program annually;
- The annual completion rate for apprentices;
- The median length of time for program completion; and,
- The post-apprenticeship employment rate of apprentices at completion.

**C.** **Standards Recognition Entity and Recognition Integrity:** Please describe the approach your organization will take to ensure transparency, accountability, impartiality, confidentiality, objectivity, and independence, covering all of the following elements:

- The policies and procedures your organization will implement so that the Industry-Recognized Apprenticeship Programs it evaluates receive objective, impartial, confidential, and equitable treatment in decision-making, and will be evaluated on the merits of the program(s).
- CONDITIONAL QUESTION: If your organization plans to develop and sell, offer, or provide off-the-shelf apprenticeship programs or program elements (e.g., training plans), please detail the policies and procedures your organization will implement so that its off-the-shelf programs or program elements are evaluated and monitored in an objective, impartial, and equitable manner as compared with programs and/or program elements developed by other vendors or by the program sponsor.
- Your complaints and appeals process.

Please describe how your organization maintains or will maintain high quality in its recognition processes and in the programs it recognizes, covering all of the following elements:

- Your quality assurance process, specifically:
  - Your assessment processes to ensure the competencies of programs are being achieved
  - The monitoring process that will be implemented during the recognition cycles
- How and how often your organization trains and calibrates assessors to ensure there is consistency (inter-rater reliability) of recognition decisions from program to program.
- How your organization validated your recognition standards with the industry, and how your organization assesses the evidence submitted by an apprenticeship program in determining whether it meets the requirements of the standards.

## Section V – Additional Representations of Program Quality by the Standards Recognition Entity

**A.** **Standards Recognition Entity Record Retention:** Please affirm that, if your organization receives recognition from the U.S. Department of Labor that it is qualified to act as a Standards Recognition Entity of Industry-Recognized Apprenticeship Programs, your organization will maintain all records relating to the following: personnel related to the program(s), subcontracting agreements, formal complaints and appeals (including those currently in its possession), and legal status, for a term of five (5) years after the termination of DOL's recognition period during which the records were created.

☐ Yes, I affirm
☐ No, I do not affirm

**B.** **Contact Information:** Please affirm that, if your organization receives recognition from the U.S. Department of Labor that it is qualified to act as a Standards Recognition Entity of Industry-Recognized Apprenticeship Programs, your organization will retain and make available to the public up-to-date contact information for all of the Industry-Recognized Apprenticeship Programs it recognizes for the term of DOL's recognition.

☐ Yes, I affirm
☐ No, I do not affirm

**C.** **Safe Workplaces:** Please affirm that, if your organization receives recognition from the U.S. Department of Labor that it is qualified to act as a Standards Recognition Entity of Industry-Recognized Apprenticeship Programs, your organization will ensure that each program provides a safe working environment for apprentices that adheres to all applicable Federal, state, and local safety laws.

☐ Yes, I affirm
☐ No, I do not affirm

**Industry-Recognized Apprenticeship Program**
**Standards Recognition Entity Application Form**

**U.S. Department of Labor**
Office of Apprenticeship
Employment and Training Administration
OMB No. 1205-XXXX
Expires XX/XX/XXXX

**D.** **Data and Performance Metrics:** Please affirm that, if your organization receives recognition from the U.S. Department of Labor that it is qualified to act as a Standards Recognition Entity of Industry-Recognized Apprenticeship Programs, your organization will retain documentation concerning program performance and outcome metrics for the period of time it holds DOL's recognition, and will also make available to the public the required performance- and outcome-related metrics for each of the Industry-Recognized Apprenticeship Programs it recognizes.

☐ Yes, I affirm
☐ No, I do not affirm

**E.** **Conflict of Interest:** Please affirm that your organization does not provide any consultative services to apprenticeship programs and does not offer other services that could affect the impartiality of the programs it recognizes, OR that it has provided – via response to this application – evidence of its ability to mitigate its potential conflicts of interest.

☐ Yes, I affirm
☐ No, I do not affirm

**F.** **Debarments and Injunctions:** Please affirm that your organization has no relevant injunctions, debarments, or other restrictions on it which may prevent it from being permitted to do business with the U.S. Federal Government and/or with members of its industry sector.

☐ Yes, I affirm
☐ No, I do not affirm

## Section VI – Attestation

The individual listed below, as a representative of the Standards Recognition Entity described in Section I of this form, hereby certifies that all of the information disclosed in this form is true and complete, to the best of his or her knowledge.

| Signature | Print Name | Date |
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| | | |

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**Molly E. Conway,**
*Acting Assistant Secretary for Employment and Training, Labor.*

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